
THE

EQUITY DRAFTSMAN.

S. BROOKE, Printer.
No. 35, Paternoster-Row, London. .

THE
Equity Draftsman;
BEING A
COLLECTION OF PRECEDENTS,
DRAWN BY SOME OF THE LEADING MEN AT THE
EQUITY BAR:

CONTAINING

BILLS OF EVERY KIND.	INFORMATIONS.
WORDS OF COURSE NECESSARY TO ALL KINDS OF PLEADINGS, ETC.	PETITIONS.
ANSWERS.	INTERROGATORIES UPON NUMER-
DEMURRERS.	OUS AND VARIOUS SUBJECTS.
PLEAS.	ORDERS.
DISCLAIMERS.	AFFIDAVITS.
	DECREES.

SELECTED

By **MR. F. VAN HEYTHUYSEN,**
BARRISTER-AT-LAW, AND EQUITY DRAFTSMAN.
AND ARRANGED SO AS TO FORM
A COMPANION TO MITFORD'S PLEADINGS.
WITH
A COPIOUS DIGESTED INDEX.

LONDON:

Printed by S. Brooke, Paternoster-Row,

AND SOLD BY MESSRS. BUTTERWORTH AND SON, FLEET-STREET;
CLARKE AND SONS, PORTUGAL-STREET; R. PHENEY, INNER
TEMPLE-LANE; S. SWEET, CHANCERY-LANE; AND
C. HUNTER, BELL-YARD, LINCOLN'S-INN.

1816.

P R E F A C E.

THE materials, from which the following sheets are composed, were collected by the editor in the course of his exertions to gain a competent knowledge of equity-drawing: in endeavouring to accomplish this desirable end, it has been his good fortune to acquire a valuable body of **Precedents**, suited to every branch of equity-pleading; and having been in the habit of lending them to his friends, who were going through a course of study for the equity-bar, great inconvenience has arisen from his being so often without the necessary forms to refer to, in the course of his professional avocations. To remedy this, and at the same time to afford his friends and the profession at large, an opportunity of participating in the benefits they may yield, he has been induced to make a selection for publication, and which, it is hoped, will prove useful to gentlemen at the **Equity-Bar**.

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CHAPTER I.

OF THE FORMAL PARTS OF A BILL IN EQUITY.



THE observations which precede the Precedents here presented to the Chancery Draftsman, are not intended to enter at large into the theory and practice of the Court, but merely as *memoranda* ; which, it is hoped, will be deemed sufficient for the present Publication.

That we may, with facility, become acquainted with the nature of a Bill in Chancery, it will be necessary to exhibit its several Parts before we set it forth in a perfect state. We shall then proceed to the Words of Course necessary to the various Branches of Equity Pleading.

A Bill in Equity is usually divided into nine Parts:—
I. The Direction, or Address.—**II.** The Parties.—**III.** The Plaintiff's Case.—**IV.** The Charge of Confederacy.—
V. The Pretence and Charge.—**VI.** That Part which gives jurisdiction to the Court.—**VII.** The Interrogating Part.—
VIII. The Prayer.—**IX.** The usual Prayer for a *Subpœna* or other Process.

I. The Address is the Direction of a Bill to the person who presides over that Court wherein the Bill is filed. In the High Court of Chancery this form is prescribed by the person holding the Great Seal; so, that, it is varied upon every change of the custody of the Seal, or alteration in the style of the person to whose charge it is committed.

This is also the case, in every other Court of Equity, upon similar occurrences.

The Direction of a Bill in Chancery to the Lord High Chancellor.

To the Right Honorable John Lord Eldon, Baron Eldon, of Eldon, in the county of Durham, Lord High Chancellor of Great Britain.

The Direction, if the Seals be in Commission.

To the Right Honorable A. B., C. D., and E. F., Lords Commissioners for the custody of the Great Seal of Great Britain.

The Direction of a Bill in the Court of Exchequer.

To the Right Honorable N. Valsittart, Chancellor and Under-treasurer of His Majesty's Court of Exchequer at Westminster, the Honorable Sir Alexander Thompson, Knight, Lord Chief Baron of the same Court, and the Honorable the rest of the Barons there.

The Direction of a Bill in Chancery of the Great Sessions.

To A. B. and C. D., Esquires, His Majesty's Justices of the Great Sessions for the several counties of Carmarthen, Pembroke, and Cardigan, the county and the borough of Carmarthen, and town and county of Haverfordwest, humbly complaining, sheweth unto your Lordships, &c.

The Direction of a Bill in the Chancery of Lancaster.

To the Right Honorable A. B., Chancellor of the duchy and county of Lancaster, and one of His Majesty's Most Honorable Privy Council.

II. In this section of a Bill are contained the names of the Parties Complainants and their descriptions, in which their abode is particularly required to be set forth, that the Court and the Parties Defendants to the Bill may know where to resort, to compel obedience to any order or process of the Court, and particularly for payment of any costs which may be awarded against the Plaintiffs, or to punish any improper conduct in the course of the suit. *Mit.* p. 41. In this Book and others professedly written upon the Practice of the Court, we refer for the necessary information upon this head, being sensible that no Practitioner is without them.

Although

Although the beginning of a Bill is not placed under a separate section, it will be necessary to shew the several forms to the Student.

The Beginning of a Bill in Chancery.

Humbly complaining, sheweth unto your Lordship, your Orator (or) Oratrix A. B., of _____, in the county of _____ That, &c.

The Beginning of a Bill in the Exchequer.

Humbly complaining, sheweth unto your Honors, your Orator (or) Oratrix, &c. Debtor and Accomptant to His Majesty, as by the records of this honorable Court, or otherwise it doth or may appear, That, &c.

The Beginning of an Information by the Attorney-General.

Informing, sheweth unto your Lordship (or) Honors, A. B., His Majesty's Attorney-General, on the behalf of His Majesty, That, &c.

The Beginning of an Information by the Attorney General, at the Relation of another Person.

Informing, sheweth unto your Lordship, A. B., His Majesty's Attorney-General, at and by the relation of G. W., clerk, rector of the parish of _____, in the county of _____, and of W. P. and G. E., Churchwardens of the same parish, on the behalf of themselves, and of the rest of the parishioners and inhabitants of the same parish, That, &c. [here state your case.] And His Majesty's said Attorney-General, by the Relation aforesaid, informeth, and your Orator further sheweth unto your Lordship, That, &c.

III. The stating Part contains the Plaintiff's case, which ought to be drawn with clearness and precision, and not in a loose verbose manner. Deeds and other matters in writing must be set forth, so as to exhibit that part on which the Plaintiff's case may turn; the other parts slightly noticed, or perhaps not at all. You should be careful not to place in your Bill any matter but that which is pertinent to the case; for if any part of it be impertinent, it will be expunged by the Court. To guard against this, a competent knowledge of Conveyancing is highly necessary; for without an intimate acquaintance with the operative parts

of a Deed, no man can set them forth in a succinct and elegant manner.

IV. Contains the Charge of Confederacy against the persons complained of; it is doubted if this part of the Bill is of any utility. *Mit.* 42. But a Peer is never charged with combining with others to deprive the Plaintiff of his right. This part of the Bill is very frequently omitted in amicable suits. *Wy. Prac. Reg.* 63.

The Charge of Fraud and Confederacy.

But now so it is may it please your Lordship (or) Honor, that the said A. B., combining and confederating together with the said C. D., and to and with divers other persons at present unknown to your Orator (or) Oratrix, whose names, when discovered, your Orator (or) Oratrix prays may be herein inserted, and they made parties Defendants hereto, with proper and apt words, to charge them, and contriving how to injure and oppress your Orator in the premises, sometimes pretend, &c. Whereas your Orator charges the contrary thereof to be the truth. And that, &c.

V. If the Plaintiffs are aware of a defence which may be made, and have any matter to allèdge which may avoid it, the general Charge of Confederacy is usually followed by an allegation, that the Defendants pretend, or set up the matter of their defence, and by a charge of the matter which may be used to avoid it. This is commonly called the charging part of the Bill, and is sometimes also used for the purpose of obtaining a discovery of the nature of the Defendant's case, or to put in issue some matter which it is not for the interest of the Plaintiffs to admit; for which purpose the charge of pretence of the Defendant is held to be sufficient. Thus, if a Bill is filed on an equitable ground by an heir, who apprehends his ancestor has made a will, he may state his title as heir, and alleging the will by way of pretence of the Defendant's claiming under it, make a part of the case without admitting it. *Mit.* p. 43.

Pretence by the Heir, that an Instrument, made according to the Laws of Scotland, passed an Estate in the Island of Jamaica, though not executed as the Law of that Island requires, and charge to the contrary.

And the said Jane, Countess of C. pretends, that the said instrument of disposition was a valid disposition of the said moiety of the said Plantation to the trusts therein mentioned. And that upon the death of the said Robert H. (the person who made the disposition) the said Jane, Countess of C., and the other trustees therein named, or some of them, entered into the possession of the said moiety of the said Plantation, and have since continued in such possession upon the trust of the said disposition, and that the said Jane, Countess of C., hath received and retained only one-third part of the profits and produce of the said moiety of the said Plantation to her own use, and that the other two-third parts of the said profits and produce have, from time to time, been laid out in the purchase of lands, which have been settled by deeds of entail, according to the directions of the said R. H. in the said instrument of disposition:—*Whereas your Orator or Oratrix's charge*, that the said instrument of disposition being in its nature testamentary, and not being executed and attested as is required by the Law of the said Island of Jamaica, for passing real estates thereby devised, was void, and that upon the death of the said R. H. the said moiety of the said Plantation, together with the buildings, fixtures, and negroes thereon, descended to and became invested in your Oratrix, and the other daughter of the said R. H. as aforesaid; and that if in truth any part of the profit and produce of the said Plantation hath been applied to the purchase of land in Scotland, and settled as aforesaid, the same hath been a wrongful application of the said profits and produce; and charge that the said Defendants, the Trustees, or some of them, have now or lately had in their hands or power a very large sum of money, which hath risen from the profits and produce of the said moiety of the said Plantation, &c.

J. L.

VI. This part of the Bill is intended to give jurisdiction of the suit to the Court by a general averment that the acts complained of are contrary to equity, and tend to the injury of the complainants, and that they have no remedy, or not a complete remedy, without the assistance of the Court; but this averment must be supported by the case shewn in the Bill, from which it must be apparent that the Court has jurisdiction. *Mit. p. 42.*

The Clause which gives Cognizance in Equity.

All which actings, doings, and pretences, are contrary to equity and good conscience, and tend to the manifest wrong and injury in the premises.

mises. In tender consideration whereof, and forasmuch as your Orator is remediless in the premises at and by the direct and strict rules of the common law, and cannot have adequate relief, save in a Court of Equity, where matters of this and the like nature are properly cognizable and relievable.

VII. The Bill having shewn the title of the persons complaining, and that the Court has the proper jurisdiction for that purpose, in the seventh place prays; that the parties complained of may answer all the matters contained in the former part of the Bill, not only according to their positive knowledge of the facts stated, but also according to their remembrance, to the information they may have received, and the belief they are enabled to form on the subject. A principal end of an answer upon the oath of the Defendants, is to supply proof of matters necessary to support the case of the Plaintiffs; and it is therefore required of the Defendants either to admit or deny all the facts set forth in the Bill, with their attending circumstances, or to deny having any knowledge or information on the subject, or any recollection of it, and also to declare themselves unable to form any belief concerning it. But as experience has proved that the substance of the matters stated and charged in a Bill, may frequently be made by answering according to the letter only, it has become a practice to add to the general requisition, that the Defendants should answer the contents of the Bill, a repetition by way of interrogatory of the matters most essential to be answered, adding to the inquiry after each fact, an inquiry of the several circumstances which may be attendant upon it, and the variations to which it may be subject, with a view to prevent evasion, and compel a full answer. This is commonly termed the interrogating part of the Bill; and as it was originally used only to compel a full answer to the matters contained in the former part of the Bill, it must be founded on those matters. Therefore, if there is nothing in the prior part of the Bill to warrant an interrogatory, the Defendant

fendant is not compellable to answer it: a practice necessary for the preservation of form and order in the pleadings, and particularly to keep the answer to the matters put in issue by the Bill. But a variety of questions may be founded on a single charge, if any are relevant to it. Thus, if a Bill is filed against an Executor for an account of the personal estate of his Testator, upon the single charge that he has proved the will, may be founded every inquiry which may be necessary to ascertain the amount of the estate, its value, the disposition made of it, the situation of any part remaining undisposed of, the debts of the Testator, and any other circumstance leading to the account required. *Mit. 44.*

Words of course preceding the interrogating Part.

To the end therefore, that the said A. B. and the rest of the Confederates, when discovered, may, upon their several and respective corporal oaths, full, true, direct, and perfect answer make to all and singular the matters hereinbefore stated and charged, as fully and particularly as if the same were hereinafter repeated, and they there to distinctly interrogate: and that not only as to the best of their respective knowledge and remembrance, but also as to the best of their several and respective information, hearsay, and belief; and more especially that they may answer and set forth, whether (then proceeds the interrogatory.)

VIII. The prayer of relief is the next part of the Bill, and is varied according to the case made, concluding always with a prayer of general relief, at the discretion of the Court. *Mit. 45.*

Prayer for an Account of Timber cut, and to restrain Defendants from cutting down more Timber, or from committing any other Waste.

And that the said Defendant may answer the premises, and that the said C. G. may come to a full and fair account for the value of the timber, and other trees which were growing upon the said devised premises, and which have been cut down by him as aforesaid, your Orator waiving all penalties and forfeitures incurred by the said Defendant by the commission of such waste, and being willing to accept the single value thereof; and that what may be found due from the said Defendant on such account, may be paid to or secured for the benefit of your Orator; and that in the mean time an injunction may be awarded by this honorable Court,

Court, to restrain the said Defendant, his servants, workmen, or agents, from cutting down any further timber or other trees growing upon the said devised premises, or from committing any other waste or spoil thereon ; and for further relief.

IX. To attain all the ends of the Bill, it ninthly and lastly prays, that process may issue, requiring the Defendant to appear to and answer the Bill, and abide the determination of the Court on the subject ; adding, in case any Defendant has privilege of Peerage, or is a Lord of Parliament, a Prayer for a Letter-missive before the Prayer of Process ; and in case the Attorney-General, as an Officer of the Crown, is made a Defendant, the Bill, instead of praying process against him, prays that he may answer it upon being attended with a copy. For the purpose of preserving property in dispute, pending a suit, or to prevent evasion of Justice, the Court either makes a special order on the subject, or issues a provisional writ, as the Writ of Injunction, to restrain the Defendant from proceeding at the Common Law against the Plaintiff, committing waste, or doing any injurious act ; or the Writ of *Ne exeat regno* to restrain Defendant from avoiding the Plaintiff's demands by quitting the Kingdom ; and other writs of a similar nature. When a Bill seeks to obtain the special order of the Court, or a provincial writ, for any of these Purposes, it is usual to insert in it, immediately before the prayer of process, a prayer for the order, or particular writ, which the case requires ; and the bill is then commonly named from the writ so prayed, as an Injunction Bill, or a Bill for a Writ of *Ne exeat regno*. *Mit.* p. 46. The Form of Prayer for those and similar purposes will be found attached to Bills of that denomination in the following pages. The most usual Prayer is for a *Subpœna* to appear and answer the Plaintiff's allegations.

The Common Prayer for a Subpœna.

'May it please your Lordship to grant unto your Orator (or Oratrix)
His Majesty's most gracious Writ of *Subpœna*, to be directed to the
said

said A. B., thereby commanding him, at a certain day, and under a certain pain therein to be inserted, personally to be and appear before your Lordship in this honorable Court, then and there to answer the premises, and to stand to and abide such Order and Decree therein, as to your Lordship shall seem agreeable to equity and good conscience. And your Petitioner shall ever pray, &c.

We have now set forth the several parts of a Bill ; we will not, however, enumerate the various kinds of Bills until we present the Draftsman with what will appear in the next Chapter, which he will find of the most essential use.

CHAPTER II,

WORDS OF COURSE NECESSARY TO DIFFERENT BRANCHES
OF EQUITY PLEADING. — ACCOUNTS TO BE TAKEN.—
STATEMENTS.—PRETENCES.—CHARGES, — INQUIRIES.—
CONCLUSIONS AND PRAYERS.

BEFORE we exhibit the necessary forms for Chancery Pleading, which we intend to do according to the arrangement set forth in *Mitford's Chancery*, it will be proper to exhibit those parts which come under the head of "Words of Course;" these the Draftsman will find not only useful, but necessary. We shall then add a selection of Pretences, Charges, Prayers, &c. which will be found equally useful as Precedents. If these are perused by the Student with attention, it will tend to give him a facility and ease in drawing drafts from the variety of cases, which may be placed before him for that purpose.

Words of course preceding an Answer.

The Answer of A. B. the Defendant, to the Bill of Complaint of C. D. Complainant.

This Defendant, now and at all times hereafter saving and reserving to himself all and all manner of benefit and advantage of exception, that can or may be had or taken to the many errors, uncertainties, insufficiencies, and other imperfections in the said Complainant's said Bill of Complaint contained, for answer thereto, or unto so much thereof as this Defendant is advised is material or necessary for him to make answer unto, answereth and saith, &c.

Concluding Part.

And this Defendant denies all and all manner of unlawful Combination and Confederacy wherewith he is by the said Bill charged, without there is any other matter, cause, or thing in the Complainant's said Bill of Complaint contained, material or necessary for this Defendant to make answer unto, and not herein and hereby well and sufficiently answered, avoided, traversed, or denied, is true, to the knowledge or belief of this Defendant: All which matters and things this defendant is ready and willing

willing to aver, maintain, and prove, as this honorable Court shall direct; and hereby prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

Words of course preceding a joint Answer,

The joint and several Answer of A. B. and C. D. two of the Defendants to the Bill of Complaint of E. F. and G. H. Complainants.

These defendants, now and at all times hereafter saving and reserving to themselves severally and respectively, all and all manner, &c. (as above,) for answer therunto, or unto so much thereof as these Defendants are advised is in anywise material or necessary for them to make answer unto, these Defendants, each answering for himself and herself, and not the one for the other, severally answering, say, &c. And these Defendants further answering in manner aforesaid, say, &c.

Words of course preceding an Answer of Infants by their Guardians,

The joint and several Answer of A. B. and C. D. Infants, under the Age of twenty-one Years, by E. F. their Guardian, two of the Defendants in the Bill of Complaint of G. and H. Complainants.

The Defendants, now and at all times, &c. (as before.) These Defendants, answering respectively by their said Guardian, severally answering, say, &c. And these Defendants further severally answering in manner aforesaid, say, &c.

Conclusion to the foregoing.

And these Defendants, in manner aforesaid, say, they are Infants, the Defendant A. B. of the age of or thereabouts, and the Defendant C. D. of or thereabouts; and they submit their rights and interest to the care and protection of this honorable Court, without that, &c.

Words of course preceding an Answer, where Persons of full Age and Infants answering together.

The joint and several Answer of A. B. and C. D. and E. F. and G. H. Infants, &c.

These Defendants, now and at all times, &c. severally answering for themselves, say, &c. And these other Defendants, the Infants, answering by their said Guardians, severally say, &c.

Conclusion.—And these Defendants, the said , being all Infants under the age of twenty-one years, they submit their respective rights and interests in the premises to the care and protection of this honorable Court. And these other Defendants deny, &c.

Words of course preceding Exceptions to an Answer.

In Chancery.

Between A. B. Complainant, and C. D. Defendant.

Exceptions taken by the said Complainants to the Answer put in by the said Defendant to the said Complainant's Bill of Complaint.

First Exception.—For that the said Defendant hath not answered and set forth according to the best and utmost of his knowledge, remembrance, information, and belief, whether, &c.

Second Exception.—For that the said Defendant hath not in manner aforesaid answered and set forth, whether, &c.

Conclusion.—In all which particulars the said Complainant humbly insists the said Defendant's Answer is altogether evasive, imperfect, and insufficient; wherefore the said Complainant doth except thereto, and humbly prays that the said Defendant may be compelled to amend the same, and put in a full and sufficient Answer to the said Bill of Complaint.

Words of course to an Answer after Exceptions.

The further Answer of A. B. the Defendant, to the Bill of Complaint of C. D. Complainant.

This Defendant, saving and reserving to himself, as in and by his former Answer he hath saved and reserved, for further Answer to the said Complainant's said Bill of Complaint, or to so much thereof as this Defendant is advised is necessary or material for him to make Answer unto, answering, saith, &c. without that, &c.

N. B. These words of course are equally applicable to an amended Bill, with the slight alteration of instead of saying "further Answer," say "former Answer," and inserting the word "amended" before "Bill."

Words of course preceding the Answer and Examination put in to Interrogatories, exhibited by a Master in Chancery.

In Chancery.

Between A. B. and C. D. Plaintiffs, and E. F. and G. H. Defendants.

The Answer and Examination of the Defendant E. F. one of the Executors named in the last will and testament of X. Y. Esquire, the Administrator, with the will annexed of A. B. Esquire, deceased, to Interrogatories exhibited on behalf of the Plaintiffs, before A. T. Esquire, one of the Masters of the High Court of Chancery, to whom this cause stands referred, for the examination of the said Defendant G. H. the other Defendant named in the will of the said X. Y. and also of the said Defendant E. F. pursuant to the decree made on the hearing of the said cause, bearing date, &c.

1st. To the 1st Interrogatory this Examinant saith, &c.

Words

Words of course preceding Exceptions to a Master's Report, as to the Sufficiency of Defendant's Answer.

In Chancery.

Between A. B. Complainant, and C. D. Defendant.

Exceptions taken by the Complainant, to the Report made on the day of by E. F. Esquire, one of the Masters of this honorable Court, concerning the Sufficiency of the said Defendant's Answer to the said Complainant's Bill.

1st. The said Exceptant saith that the said Master hath by his said Report certified or stated, that the said Defendant's Answer is sufficient, in that he hath thereby set forth, according to the best of his knowledge, &c. whether, &c. as required by the Complainant's Bill, whereas the said Master ought, as this Exceptant is advised, to have certified and reported the said Defendant's Answer insufficient, inasmuch as the said Defendant hath not, as the said Complainant humbly submits, answered and set forth such several matters in such manner as by the said Bill is required.

And therefore the said Complainant excepts against the said Master's Report, and prays that the same may be set aside, and the said Defendant's Answer adjudged insufficient.

Words of course preceding Exceptions to a Master's Report, as to the Sufficiency of Defendant's Answer.

In Chancery.

Between A. B. and others, Complainants, and C. D. Defendants.

Exceptions taken by the said Complainants to the Report made on the day of , by P. M. Esquire, one of the Masters of this honorable Court, concerning the Sufficiency of the said Defendant's Answer to the said Complainant's Bill.

1st. The said Exceptants severally say, that the said Master hath by his Report certified or stated, that the said Defendant's Answer is sufficient, in that he hath hereby set forth, according to the best of his knowledge, &c. whether, &c. as required by the said Complainant's Bill, whereas the said Master ought, as these Exceptants are advised, to have certified and reported the said Defendant's Answer insufficient, inasmuch as the said Defendant hath not, as the said Complainant humbly insists, answered and set forth such several matters in such manner as by the said Complainant's Bill is required.

And therefore the said Complainants except to the said Master's Report, and pray that the same may be set aside, and the Defendants' Answer adjudged insufficient.

Another

Another Form of Exceptions to the Master's Report.

In Chancery.—Between, &c.

Exceptions taken by the said Complainant to the Report of G. H. Esquire, one, &c. made in this cause, and bearing date, &c.

First Exception.—For that the said Master hath in and by his said Report stated, &c.

Second Exception.—For that the said Master hath in and by his said Report certified, &c.

In all which particulars the said Complainant doth except to the said Master's said Report, and humbly appeals therefrom to the Judgment of this honorable Court.

Accounts proper to be required in a Bill against the Trustees of a real and personal Estate for Payment of Debts, &c. for a Settlement of Accounts respecting the Trust Estate.

1st. That the said Defendants may set forth an account of all and every sum and sums of money received by them or either of them, or by any person or persons by their or either of their order, or for their or either of their use, since the time of the date and execution of the said indentures of lease and release, for or in respect of the rents, profits, interest, or income of the freehold and leasehold estates and other property and effects conveyed and assigned to them by the said indentures, and when and from whom, and for what in particular, all and every such sums were respectively received.

2d. A rental, description, and particular, of all such parts of the said freehold and leasehold estates as have been sold and disposed of by them, or either of them, by any person or persons, by the order or directions of them or either of them, and also an account of all and every the sums which were received by, or by the order, or for the use of them the said Defendant or either of them, for or in respect of such sales or any of them, and when, or about what time or times in particular, and by whom, and from whom, and for what parts or part of the farm, estate, and premises, such sums were respectively received.

3d. An account of all and every sum and sums of money which hath and have been paid by them or any of them, or by any person or persons by their order or on the account of them or either of them, in or towards satisfaction of the debts due and owing from or by the said C. G. at the time of the date and execution of the said indentures of lease and release, or trust deeds, and when and to whom, and for the payment of what particular debt or debts, all and every such sums were severally respectively paid.

Accounts to be required in a Bill filed for the Purpose of calling an Attorney or Agent to account for Remittances.

1st. An account of all sums received by, or by the order, or for the use of Defendant, belonging to J. W. or his estate, during the life-time of J. W. or since his death, as such Attorney or Agent.

2d. An

2d. An account of all goods, wares, merchandizes, property, and effects, remitted and sent by the said J. W. in his life-time unto, and received by, or by the order, or for the use of Defendant, and all and every the natures, kinds, quantities, qualities, full, real, and true values of all and every part thereof.

3d. An account of all and every sum and sums of money received by Defendant, &c. for and in respect of the sale thereof, and of every or any part or parts thereof, and when and by whom, &c.

4th. An account of all parts, &c. of goods, &c. which remain unsold, and their natures, &c. and what is become thereof.

5th. A full and true list of all books of account, and their accounts, letters, papers, vouchers, *memoranda*, and other writings, relating to the estates, affairs, and concerns of the said J. W. which are now, or ever were, in Defendant's custody, possession, or power, &c.

6th. An account of all monies paid to or for the use of J. W. and when, where, and to whom, and for what, &c.

J. L.

Statement that Books are in the Custody of Defendant, and Inquiry thereto.

And that A. B. hath now, or had, in his custody or power, some books of receipts, papers, or writings, which belonged to the said and contained some entries or *memoranda*, in some manner referring or relating to his real or personal estate, or some part thereof, or the said knows what, hath become of such books, papers, or writings; and the said ought to set forth a list or schedule thereof, and to leave the same, if in his custody or power, in the hands of his clerk in court, for the usual purposes.

Inquiry.

And whether the said hath not now, or hath not had, and when last in his custody or power, some and what book or books of account, papers, or paper-writings or writing, which belonged to the said, and contain some and what entries or entry, or memorandum, in some and what manner referring or relating to his real or personal estate, or some and what part thereof, and if the said hath not now such books or book, papers, or paper-writings or writing, in his custody or power, then that he may set forth what hath become thereof, and where the same, and every of them, now are or is, or last were, to his knowledge or belief, and that he may set forth a list or schedule of all such books, papers, and writings, and may leave the same, or such thereof as he hath in his custody or power in the hands of his clerk in court for the usual purposes.

Application, Charging Part, and Prayer to a Bill, that Tenant may be obliged to put and keep Premises in Repair, and Injunction from farther Waste by ploughing up, contrary to the Terms of his Lease.

And therefore Plaintiff hath, at several times, by himself and his agents, in a friendly manner applied to, &c. and requested him to put all the said houses,

houses, out-houses, and all the buildings and fences, &c. into good repair, and so keep the same in such good and sufficient repair during the remainder of the term, and to forbear to plough any of the lands demised to him as aforesaid, which he is not at liberty to plough, according to the terms of the said lease, and to make satisfaction to Plaintiff for all the damage done to the said estate by his mismanagement, or neglect in the management thereof, according to the terms of the said lease, and course of husbandry practised in the neighbouring country. And Plaintiff well hoped, &c. but now, &c.

Pretends that the said messuage or tenement, and all the out-houses and buildings there belonging, and all the fences, gates, and stiles on the said lands, have been constantly, during his possession thereof, and now are, in good repair and condition, and that he hath never ploughed any part of the said lands which he was not at liberty to plough, by the terms of the said lease, and the course of husbandry used and approved in the neighbourhood thereof, and that he hath never in any manner neglected the manuring or taking care of any part thereof, but that he hath constantly used and employed, cultivated and manured, all such lands, in a proper, regular, and careful manner, according to the terms of the said lease, and a good course of husbandry used and practised in the neighbouring country, and that all the particulars of the said messuage, and the house and buildings thereto belonging, and of the said lands, and the fences, gates, stiles, and ditches thereon, are in as good plight and condition, in all respects, as the same was when he entered thereon, and that he hath never cut, or caused to be cut, any timber, or other trees growing on such lands, or any part thereof.

Charge contrary, and that the said messuages and lands, with the appurtenances thereof, are now, from the neglect and gross mismanagement of the said Defendant, in so much worse condition than the same were in at the time of his entering thereon, and that the same are, on that account, worth to be sold £100 less than the same were worth to be sold at the time when he the said Defendant entered thereon, and it would cost £100 and upwards to put the same into as good plight and condition as the same were in when he the said Defendant entered thereon, to the end, &c.

Prayer.

That Defendant may be obliged to put the said messuage or tenement, building, gates, &c. into good and sufficient repair, and may make satisfaction to Plaintiff for all waste committed by him on the said estate, and all damage done by him thereon, by his mismanagement or neglect, Plaintiff waiving all right, &c. and that he may be allowed to keep the said estate, &c. in good repair and condition during the remainder of his interest therein, and to manure and cultivate the same according to the terms of the said lease, and may be restrained, by the injunction of this honorable court, from committing any further waste or spoil on the said estate, or any part thereof, and that all proper directions may be given for the effectuating the purposes aforesaid, and further relief.

Part of a Bill by Executors, who had Notice of adverse Claims, for the Purpose of having the same ascertained.

That the said E. K. departed this life on, &c. and the said I. K. &c. one of the residuary legatees named in the said will of the said Testator, as aforesaid, have all attained their respective ages of twenty-one years, and the said residuary legatees are now become entitled to have their respective shares of the said residuary property paid to them.

That the said Testator's residuary property now consists of the sum of £ £ 3 per cent. Consols, &c. and the sum of £ in the hands of Plaintiffs, and Plaintiffs are ready and willing to divide and dispose of the said residuary property, according to the directions contained in the said Testator's will.

That E. S. and I. S. claiming to be entitled to some interest in property to which the said — is entitled, in right of his said wife, of the said Testator's residuary property, under an assignment made to them by the said C. F. and his wife, served a notice in writing to that purport on Plaintiff I. S. as by the said notice, &c.

That on, &c. another notice was served on Plaintiffs by Messrs. G. and I. of, &c. claiming the said share of the said C. F. in right of M. his wife, by virtue of an assignment from the said E. S. and I. S. but the said Messrs. G. and I. having since become bankrupts, another notice was served on Plaintiff's solicitor, on, &c. by Messrs. W. and Son, the solicitors under the commission of bankrupt, awarded against the said G. and I. purporting that W. C. &c. having been duly chosen and appointed assignees of the estate and effects of the said G. and I. claimed the said share of the said C. F. and his said wife, in right of the said G. and I. as by the said two notices, &c.

That on or about, &c. a notice was served upon Plaintiff by W. G. of, &c. stating a certain assignment made by the said, &c. to N. S. of, &c. under and by virtue of which the said R. S. claimed to be entitled to some interest in the said share of the said A. and M. his wife, of the said residuary property, as by the said notice, &c.

That on or about, &c. another notice was served on Plaintiff, by, &c. claiming to be entitled to the share of the said I. K. of the said testator's residuary property, under and by virtue of the said assignment made to him by the said I. K.

That by reason of such several claims, Plaintiffs are unable to distinguish to whom the said residuary property ought to be distributed, but Plaintiffs being ready and willing to distribute the same, have frequently applied to the said, &c. &c. (claimant), and also to the said, &c. (residuary legatees), and also to the said, &c. the several assignees who have so served Plaintiffs with notices, and made claims as aforesaid, and have requested them to execute the said several claims and demands, that Plaintiffs might be enabled to distribute the said residuary estate accordingly.

But now, &c. Pretend that no such will as herein before set forth was made by the said H. M.

Charge the contrary, &c. and which Defendants will, at other times, admit, but then they give out, &c.

Pretend that there is a very large residue in the hands of Plaintiffs, and much more than the said sum of £ in the hands of Plaintiff.

Charge the contrary, &c. and that no more now remains than the said sums
herein

herein before in that behalf mentioned, except what if any thing may have come to the hands or possession of the said I. S. And the said, &c. severally claim to be entitled to the said share of the said C. F. and M. his wife, and the said I. K. claims to be entitled, notwithstanding the said assignment of their shares of the said residuary property, as residuary legatees; and the said Defendant I. K. sometimes claims to be further interested in this residuary estate and effects, and the said Defendant F. S. refuses to come to any account in the premises. All which, &c.

Pretence in a Bill for specific Performance, Lessee against Lessor, that it was not in Writing, and Charge that this was immaterial, Plaintiff having repaired the Premises and expended Money in confidence of the Agreement.

And the said Defendant at other times pretends that the said agreement or agreements, not having been reduced into writing, he is not bound to perform the same; whereas your Orator is advised and humbly submits that the said Defendant is liable to perform the same notwithstanding. And your Orator charges, that upon the faith of the said first mentioned agreement, your Orator, with the privity and knowledge of the said Defendant, continued in the possession of the said premises after the expiration of your Orator's said original lease, and proceeded in the said repairs which had been pointed out by the said surveyor as aforesaid, and laid out great sums of money in such repairs. And your Orator charges, that upon the faith of the said second agreement, touching the lease of the said premises, to commence at Michaelmas-day, , your Orator hath ever since continued in the possession of the said premises, and hath completed the said repairs, and re-built the said barns, and hath thereby incurred a very great expense. And your Orator further charges, that the said Defendant, since the expiration of his said former lease, hath been paid by your Orator, and hath accepted from your Orator the said increased yearly rent of £ per annum, from time to time as the same became due.

A. C.

Pretence and Charge in a Bill that Personals are insufficient, and are payable out of real Estate; doubt true Construction of the Will; Pretence that the Will will not extend so as to pass real Estates, &c.

That the said Defendants severally refuse to comply with the Plaintiffs' aforesaid requests; that said Defendants sometimes pretend that the personals are insufficient. Charge contrary, and if not, charge that the said Testator's real estates come to the hands of the said Defendants, his Executors and Trustees, ought to be applied in aid of his personal estate, till the whole of the aforesaid purposes are satisfied, and so the said Defendants admit, but at other times they pretend that the rents and profits alone of the said Testator's real estates are applicable to the said aforesaid purposes, and that the said Defendants have no power

power given them by the said will over the said Testator's real estate or any estate or interest therein that can enable them to apply the same or any part thereof in aid of the said Testator's personal estate, further than the reception of the said rents. Charge, that by the construction of the said Testator's will, the whole of the legacies and sums, as well present as contingent, are charged upon both the real and personal Estate of the said Testator as one fund, and that the said Defendants, his Executors, take such estate and interest therein, and no less, than may be capable of fully effectuating the said Testator's intent and meaning, and satisfying the whole of the benefits intended to be given by the said will, and so they will sometimes admit; but then they pretend that doubts are entertained with respect to the true construction of the said Testator's will in this and divers other respects, and with regard to some of the Plaintiff's claims in respect of some of their legacies and annuities hereinbefore mentioned, and that they the said Defendants cannot safely proceed in execution of the trusts of the said Testator's will, by reason of such said doubts and difficulties, without the aid of a Court of Equity, nevertheless they refuse to state and discover wherein such pretended doubts and difficulties consist. That said Defendants (the co-heirs) pretend that the said Testator's will was not so executed or attested, so as to pass real estates by devise, and he the said I. D. claims some estate or interest in the Testator's real estates in right of the said A. his wife, and the said A. and B. as co-heirs at law of the said Testator, threaten to dispute the said will. And the said A. D. &c. (the Executors) claim some legacies as due to themselves, and threaten to retain the same immediately out of the personal estate of the said Testator in their hands. Charge, that after providing for the annuities immediately preceding the life estate given her in the said Testator's residue in the said will, all the other legacies are postponed till after her decease, and that the said A. D. &c. (the Executors) ought not to retain any part of the said legacies claimed by them, until that period.

Pretence and Charge in a Bill, that Defendants have forfeited their respective Rights under the Testator's Will, which contained a Clause, that in case the Trustees were molested by the Devisees, that their Devise should cease.

And at sometimes the said last mentioned Defendants pretend, that under or by virtue of the said will, your Orators are barred from instituting any suit in this honorable Court against them the said named Defendants, touching the said Testator's estates, or the distribution thereof, inasmuch as they the said last named Defendants are molested thereby; and that your Orators have therefore, under or by virtue of the clause contained in the said will in that behalf, forfeited their respective interests under the same. Whereas your Orators charge, and humbly insist, that no forfeiture whatever is incurred by them in so doing, and the more especially, inasmuch as they charge that it is manifestly to be presumed that the said Testator did not by the aforesaid clause contained in his said will, mean to protect them the said last named Defendants against being duly called upon by the persons entitled

tled under the said will for an account of the matters aforesaid, but the rather from being wantonly and maliciously molested in the execution of the trusts thereof, and so the said last named Defendants will themselves at other times admit, but nevertheless under some such or the like pretences, or some others equally unreasonably and unjust, they have refused or declined to comply with your Orator's most reasonable requests.

Pretence and Charge in a Tithe Bill of a Modus, and Writings which substantiate it.

Pretends, that by reason of some modus or immemorial payments or payment, he is not bound to render to your Orator in kind the tithes of all or any of the titheable matters and things aforesaid. Whereas your Orator charges the contrary thereof to be the truth, and that there doth not exist any modus or immemorial payments in lieu of any of the tithes aforesaid, arising or renewing upon the lands of the said Defendant, or any of them; and that the money payments which of late years have been rendered in lieu of the said tithes have been temporary compositions, determinable at the pleasure of either party, and so the said Defendant well knows. And the said Defendant has or had had in his custody or power some books, receipts, or papers, from whence the origin of the said money payments will appear, or the balance thereof from time to time, or which in some manner relate to or explain the same. But now, &c.

J. L.

Charge, if Papers, &c. produced, Plaintiff's Title would appear.

Further charges, that in case the said letters, notes, writings, drafts, copies, abstracts or extracts of letters, notes, or written messages, and other the papers, memorandums, and writings, were produced, or the purport or contents thereof were set forth and discovered, which Plaintiff humbly insists they ought to be, the truth of the several matters and things hereinbefore stated and charged, would manifestly and clearly appear, and particularly that Plaintiff and the other owners of the said cargo were and are entitled to the produce or money arising by the sale of the said cargo, which was received by the said I. C. and remitted as aforesaid to the said confederates, but which they nevertheless refuse to produce, although frequent applications have been made to them for that purpose.

Pretence.

And at sometimes Defendants pretend, that they have produced and have shewn to Plaintiff all the letters, papers, and writings in their or either of their custody or power, relating to the matters and transactions aforesaid.

Charge.

Contrary, and that Defendants have not produced or shewn to Plaintiff, all the letters and copies of letters, and other correspondence, nor all the papers and writings in their custody or power, relating to the aforesaid

aforesaid matters and transactions; and in particular Plaintiff charges, that notwithstanding the said confederates did sometime since produce and lend to Plaintiff, in consequence of an application made to them for that purpose, copies of some letters and correspondence, and also of some other papers relating to the matters and transactions aforesaid, they nevertheless secreted, withheld, or kept back, sundry of such letters, and a great or some part of such correspondence, and sundry of the papers or writings in their custody or power, relating to the matters and transactions aforesaid, and which were material to shew your Orator's right to a part or share of the money so remitted to them the said confederates, on account of the produce of the sale of the said cargo, and that divers or some of the papers which the said Defendants delivered or sent unto Plaintiff, as copies of such letters and correspondence as aforesaid, were not faithful and exact copies of such letters and correspondence, but partial extracts thereof or therefrom; and that sundry material parts and passages of such letters thereof as tended to shew the right and title of Plaintiff and the other owners of the said cargo, or some or one of them, to the money remitted to the said confederates as aforesaid, on account of the produce or money arising from the sale of the said cargo, were designedly or intentionally left out or omitted in the copies so sent or delivered to your Orator, and that the same was so done with a view to prevent your Orator from being made acquainted with the whole purport or contents of the said letters and other correspondence, and of concealing from your Orator and the other owners of the said cargo, their right to receive from the said confederates, or their claim upon the said confederates, in respect to the produce or money arising from or produced by the sale of the said cargo, and in their hands as aforesaid, or with some other fraudulent or unfair view, intent, or design. But, nevertheless, under such and the like pretences, confederates refuse to pay Plaintiff one-third or any other part or share of the money remitted to them and now in their hands, arising or produced by the sale of the said cargo; and Plaintiff having commenced an action at law against the said confederates, to recover or obtain payment from them of the money which they have received for Plaintiff's use in manner aforesaid, Plaintiff is unable to proceed with effect therein without a full disclosure and discovery from the said Defendants, and without having one or more commission or commissions for the examination of his witnesses in Jamaica, and at, &c. in which places, or some or one of them, Plaintiff's witnesses who can prove the truth of the several matters and things hereinbefore stated and charged, reside, and therefore the said Defendants set Plaintiffs at defiance.

Inquiry.

And whether they the said Defendants, or one and which of them, have or hath not now, or had not at some and what time and when last, in their or one and which of their custody, power or possession, sundry, or some and what other letters or letter, notes or note, written messages or message. And whether or not also some and what copies or copy, drafts or draft, abstracts or abstract, extracts or extract of letters or letter, notes or note, or written messages or message, which were or was, and when written or sent by them the said confederates, or one, and which
of

of them; and the said I. C. and W. H. or one and which of them, or some and what other persons or person, relating to the matters and transactions aforesaid, or some or one and which of them, and particularly whether or not relating to, &c. And whether they the said Defendants, or one and which of them have or hath not also now, or last, and when had, in their or one and which of their custody, possession, or power, various or some and what papers or paper, memorandums or memorandum, writings or writing, relating to or in some manner concerning the same matters and transactions, or some and which of them, or what is become thereof, and with whom, and in whose custody, possession or power, and for whose use they the said Defendants, or either and which of them last, and when saw or heard of the same, or any and which of them, and that they the said Defendants may set forth a list and schedule of all and every such letters, notes, written messages, copies, abstracts or extracts of papers, memorandums, and writings, and that they may leave the same in the hands of their clerk in Court for the several purposes.

And whereas they the said Defendants, or either and which of them, or any and what persons or person, by their or either and which of their orders or directions, have or hath ever, and when, and how, and in what manner, and whether or not wilfully or intentionally, burnt, destroyed, altered, obliterated, or defaced the said letters and other premises, or any and which of them. And in case the same have been so burnt, destroyed, altered, obliterated, or defaced, whether the same was not done with a view to prevent a production of the same, and a discovery of the several matters and information therein contained, or for what other purpose.

And whether, in case the said letters, notes, &c. and other the said papers, memorandums, and writings, were produced, or the purport and contents thereof set forth and discovered, the truth of the several matters and things before stated and charged, or some or one and which of them, would not manifestly and clearly, or in some and what degree appear, and particularly whether or not that, &c.

Inquiry.

And whether the said Defendants, or either and which of them, have or hath ever, and when, produced and shewn to your Orator all or any, and which of the letters, or copies of letters, or correspondence, or all or any, and which of the papers or writings in their custody or power, relating to the matters and transactions aforesaid, and whether they the said Defendants did not upon such occasion secrete and withhold, or keep back sundry or some, and which of such letters, and a great part or some and what part of such correspondence. And whether or not sundry or some, and which of the letters and writings in their or one and which of their custody, possession, or power, relating to the matters and transactions aforesaid, or some and which of them; and whether the same, or some and which of them, were or was not material to shew Plaintiff's right to a part or share of the money so remitted to them the said Defendants, or one and which of them, on account of the produce of the sale of the said cargo, or how otherwise. And whether divers or some, and which of the papers which the said Defendants declared

declared to Plaintiff, or some person or persons on his behalf, as copies or copy of such letters or letter, or correspondence, were or was not, and in what respect, unfaithful copies or copy thereof, or whether the same were or was not, and in what respect partial extracts or a partial extract thereof or therefrom; and whether sundry or some, and what material parts or part, passages or passage thereof, and particularly whether or not such parts thereof as tended to shew the right and title of Plaintiff and the said owners of the said cargo, or some and which of them, to the money remitted to them, the said Defendants, or one and which of them, on account of the produce or money arising from the produce of the sale of the said cargo, were or was not intentionally or designedly, or how otherwise, left out or omitted in the copies or copy so sent or delivered to Plaintiff as aforesaid. And whether the same was not so done with a view to prevent Plaintiff being made acquainted with the whole, or some and what part of the purport and contents of the said letters or letter, or other correspondence; and whether or not with a view to conceal from Plaintiff and the owners of the said cargo, or some, &c. their or some, and which of their rights, to receive from their or some, and which of their claims upon the said Defendants, or one and which of them, in respect of the produce or money arising from or produced by the sale of the said cargo, in their or one and which of their hands, or with some and what other fraudulent or unfair view, intent, or design.

J. S.

Charges in a Bill against an Executor, as to an Account and Balance due, the Account scheduled in the Bill.

Pretence personally insufficient, charge contrary. And at other times the said Defendant pretends that such balance as aforesaid is not justly due and owing to your Orator; whereas your Orator charges that the said sum of £ is the just balance due to your Orator upon the settlement of all accounts between your Orator and the estate of the said I. H. And your Orator hath, in the schedule to this his bill, set forth the private account between your Orator and the said I. H. and how he makes out the said balance; and your Orator further charges, that the sum of £ , charged in the said scheduled account to be due to your Orator, by the promissory note of the said I. H. bearing date, &c. was advanced by your Orator to the said I. H. at three different times, shortly before the said notice was given, in sums of £ , the last of such sums being for the payment of wine duty. And your Orator charges, that at the expiration of the time limited by the said promissory note for the payment thereof, your Orator presented the same for payment; and the said I. H. then told your Orator that it did not suit him to pay it, and requested your Orator to wait till it should be convenient to him to discharge the same. And your Orator further chargeth, that about the month of , your Orator made out a statement of the private account between him and the said I. H. and the said I. H. then promising your Orator that he would forthwith settle such account, and pay your Orator the balance thereof, and requesting that your Orator would include the sum of £ and interest in the said account, your Orator thereupon so included the same in such stated account, and delivered up to the said I. H. the said promissory note, and the same is now, or lately was, in the possession of the said I. W. being found by him amongst the papers of the

the said I. H. But the said I. H. never did settle such private account in his life-time, nor make to your Orator any payment in respect of the said promissory note. And your Orator further chargeth, that the sum of £ , charged in the said scheduled account to be paid to Mr. W. of H. was sent to him by your Orator, on account of the said I. H. at the particular request of the said I. H. And there is, in the cash book of the said I. H. an entry of it, as paid on the day of to the said Mr. W. and there is also amongst the papers of the said I. H. a letter from the said Mr. W. acknowledging the receipt of such sum, and such letter is now, or lately was, in the custody of the said I. W. But nevertheless, under such and the like pretences as aforesaid, the said I. W. refuses to pay to your Orator what is justly due and owing to him as aforesaid. All which, &c.

Charge in a Bill brought by the Heir of the supposed Testator, in order to set aside the Will, as being obtained by Fraud and Imposition. The supposed Testator having lost the Use of his Intellects, Defendants set up the Will, and insist it was duly executed.

Charge, that the Testator behaved, for years before his death, as a person of insane mind, &c. and that his faculties were greatly impaired; and in evidence thereof charge (stating a particular instance), and that the will was prepared by the sole directions of the Defendants, without the knowledge or privity of the said Testator, and was produced to him for his execution, ready drawn, without the Testator's instructions; and that, if he did give any directions for such will to be prepared, he was at such time incapable of judging what he said or did, and that the will was not read over to him, nor was he informed or knew the contents; or if he was informed of the contents, he was not at that time capable of understanding them, or of judging of the propriety, &c. and that he was compelled by threats.

Charge, that if the said Testator really made such will, he was, immediately before the execution, intoxicated by Defendants, or by some undue means prevailed upon, under a total ignorance of the contents; and that, if the Testator, at the time of his signing such will, knew and understood the contents, he had forgot the Plaintiff, by which means the attorney was prevailed upon to make the will, and attend the execution, otherwise he would not have been concerned therein, having made objections on account of Testator's insanity, and weak state of mind, and hath declared himself to this effect since the Testator's death, and that he received the testimonies for the will from the Defendants, and that the said attorney desired the apothecary might be present at the execution, to which the Defendants objected.

Charge, that the Defendants imposed upon the attorney, who had never before seen the Testator, and therefore was totally ignorant of his weak state of mind, and his inability, &c. representing themselves as his heirs at law, and taking no notice of Plaintiff, by which means the attorney was prevailed upon to make the will, and attend the execution, otherwise he would not have been concerned therein, having made objections on account of Testator's insanity, and weak state of mind, and hath declared himself to this effect since the Testator's death, and that he received the testimonies for the will from the Defendants, and that the said attorney desired the apothecary might be present at the execution, to which the Defendants objected.

Charge, that the will ought to be set aside, and that the Testator's real estate descended to Plaintiff as his heir at law.

Charging

Charging Part of a Bill filed by an Annuity Creditor, against the Trustees, under a Deed, empowering them to sell and fall Timber for re-purchasing the Annuity, charging them with Misapplication, inasmuch as they applied the Produce of the Sale in discharging the Arrears of another Annuity under an Indemnity. .

But now so it is, &c. They the said Defendants refuse to comply with your Orator's said requests, sometimes pretending that the said C. S. never executed such instrument or power of attorney as aforesaid, or any other instrument or power of attorney whatever, for the purposes aforesaid; whereas your Orator charges the contrary of such pretence to be true as aforesaid, and so the said Defendant will at other times admit. But then they pretend that they the said Defendants, I. H. I. W. B. and W. C. (the Trustees), never did cause any timber or other trees whatever, which were growing on the aforesaid manors and estates, or any of them, to be felled or cut down, and sold and disposed of under and by virtue of the said power of attorney, nor ever received any sum or sums of money, arising by such sale, or any part thereof, whereas your Orator charges the contrary thereof to be true, and so the said Defendants will at other times also admit. But then they pretend that the said W. C. hath accounted for and paid the money arising from the sale of the said timber to the Defendants, I. W. and F. E. (the persons who hold the other annuities), who were entitled to receive the same in preference to your Orator, and had some preferable claim or lien thereon, and had obtained some order of this honorable Court for the payment thereof upon the said W. C.; whereas your Orator charges that the said I. W. and F. E. had no lien or claim whatever thereon, nor any right or title to receive or call upon him the said Defendant W. C. for the payment of the same, or any part thereof, or to compel him to account for or pay the same, or any part thereof; and that if in truth any order of this honorable Court was made respecting the payment of the said sum of money to the said I. W. and F. E. or in any manner relating thereto, yet that this honorable Court was surprized in such order, and was not in any manner apprized of the truth of the transaction; and that the said W. C. confederating with the said I. W. and F. E. purposely suppressed or concealed from this honorable Court the authority under which the said timber had been cut, and the purpose for which it was meant to be applied. And your Orator further charges, that upon payment being made to the said I. W. and F. E. by the said Defendant W. C. (in case any such was made), he the said Defendant required and took from them some indemnity or security against the right or claim of your Orator to such money. And your Orator further charges, that if the said sum was paid by the said W. C. to the said I. W. and F. E. the same was so paid to them under the pretence that considerable arrears were due to them as copartners, in respect of any annuity granted to them by the said C. S. Whereas your Orator charges, that the said I. W. and F. E. had, at the time of such payment, by their receipts, from the estates and property of the said C. S. have fully paid all arrears of their said annuity; and your Orator charges

charges and humbly insists that the said Defendants I. H. W. B. and W. C. having accepted the trusts under the said power of attorney, ought to have paid the said monies arising by such sales as aforesaid (after such deduction as aforesaid) or a competent part thereof, to your Orator, in or towards the re-purchase of the said annuity of £ and that the said Defendant W. C. having paid the said monies arising by such sales as aforesaid, contrary to the directions contained in the said power of attorney, was guilty of a breach of trust in so doing, and made himself personally liable to answer and pay this annuity to your Orator. And your Orator further charges, that the said J. W. and F. E. were, at or about the time of the making of the said power of attorney, fully apprized of the same, and of the purpose thereof, and did, by a letter written by their solicitor, fully assent thereto. But nevertheless, the said Defendants refuse to comply with your Orator's aforesaid requests. To the end, &c.

Prayer.

And that an account may be taken of all and every the monies which have been received by the said W. C. I. H. and W. B. or by any person by their order, or for their use, for or in respect of such sales as aforesaid. And that the said Defendants may be decreed to pay what shall appear to be due from them respectively, upon the taking the aforesaid account. And that the same, after such deduction as aforesaid, or a competent part thereof, may be paid to your Orator in or towards the repurchase of the said annuity of £ upon the terms provided by the said indenture of the day of And for further relief, &c.

J. S.

Pretences and Charges in a Bill for Settlement of Partnership Accounts, where only an Agent for, and no Articles of Copartnership were executed, impeaching the Account which had been delivered by Defendant.

Pretends that he never agreed to enter into partnership with Plaintiff, nor ever subscribed such memorandum or agreement as aforesaid, or any other memorandum or agreement for that purpose, but at other times admitting the contrary thereof to be true, he pretends that he hath constantly, from time to time, duly and regularly accounted with Plaintiff for all the several sums of money received by him, the said Defendant, on account of the said partnership business, and the produce, gains, and profit thereof, and that Plaintiff hath, from time to time, received his share and proportion of such monies, and the clear gains or profits thereof, after deducting the necessary outgoings and expences attending or relating thereto, to the said copartnership business, and that all the accounts relating thereto have been regularly adjusted and settled down to the present time.

Charge contrary,

And that no accounts whatever have been ever adjusted or settled between Plaintiff and Defendant, at any time since the commencement of the

the said copartnership, in any manner relating thereto, or to the business thereof, nor hath Plaintiff received any sums or sum of money whatsoever from Defendant, on account of Defendant's receipts respecting or relating to the said copartnership, or the gains or profits thereof.

Pretence that Plaintiff hath received Monies.

All which the said Defendant will at other times confess, but then he pretends that Plaintiff, from time to time, since the commencement of the said partnership, received from clients and other persons, on account of the said copartnership, and the business and profits thereof, sundry sums of money to a large amount, in the whole, and greatly exceeding the amount of the several sums received by him, the said Defendant, on the same or the like account, and also exceeding Plaintiff's moiety or share of the clear profits or gains of the said copartnership business.

Charge contrary,

And that the several sums received by Plaintiff, on the account aforesaid, were trifling and inconsiderable, in comparison with the several sums received by Defendant on the same or the like accounts, and that the said several sums so received by the said confederate greatly exceed his moiety or share of the profits, clear gains, and produce of the said copartnership, and that, upon a fair balance of all accounts relating to the matters aforesaid, the said Defendant is justly indebted to Plaintiff in a large sum of money in respect thereof, and so the said Defendant knows, and has reason to believe, and does believe, and so the same would appear in case Defendant would set forth, as Plaintiff humbly insists he ought to do, a full and particular account of all his receipts and payments on account, or in respect of, or relating to the said copartnership business, and the concerns thereof, and would produce all the books of account, and other books and papers in which any entries are made relating thereto, in his custody, possession, or power, but which he nevertheless refuses to do, or to give Plaintiff any account thereof, or any satisfaction relating thereto.

Pretence of an Account delivered.

And at some times Defendant pretends that he hath delivered or sent unto Plaintiff a full, true, and just account of all the said copartnership, and the business or concerns thereof, and he alledges that there are no errors, omissions, or mistakes therein.

Charge.

That notwithstanding Defendant hath delivered unto Plaintiff an account, which he pretends to be an account of all his receipts and payments, in respect of the said copartnership, from the commencement of the said copartnership, and of the business or concerns thereof, yet Plaintiff charges that the said pretended account is, in many respects, false, unjust,

just, and untrue, and that there are divers errors, mistakes, omissions, false and improper charges, items, and particulars therein, to the prejudice of your Orator; and that Defendant hath moreover inserted and taken credit therein for several sums of money, which were not actually paid by him, and also for several other sums which ought not to have been brought into the said account, and with the payment whereof your Orator, or the said copartnership, is by no means chargeable; and in particular, Plaintiff charges that the first schedule annexed or under-written, and which Plaintiff prays, &c. contains a list of several of the omissions made, or items or articles omitted, to be inserted in the said account, to the prejudice of your Orator; and that the second schedule, hereunto annexed, also contains a list of several overcharges, or improper charges or items, made in the said pretended account so delivered to Plaintiff.

Pretence ready to account.

All which Defendant will at other times admit; but then he pretends that he hath been at all times ready and willing to come to an account with Plaintiff, and to adjust and settle all the accounts relating to the matters aforesaid, without suit or litigation.

Charge.

And Plaintiff further charges that he hath, by himself and other persons, made sundry different applications to Defendant to come to an amicable settlement of the several accounts aforesaid, but that said Defendant hath refused to comply with such applications and requests, and under such or the like, &c.

Pretence and Charge in a Bill to set aside an Assignment of Effects for the Benefit of some Relations, the same being without valuable Consideration, and when Assignor was considerably in Debt.

Sometimes pretends that he hath not, since the death of the said I. I. his late father, deceased, possessed any personal estate or effects which were belonging to him at the time of his death, he the said I. I. not being possessed of, or entitled unto, any personal estate or effects whatsoever, for that the said I. I. some time before his death, and in or about the year , executed some deed or deeds, instrument or instruments, in writing, whereby he assigned unto the said W. I., or to some other person or persons in trust for him, or for his use or benefit, or in trust for, or for the use or benefit of some friend or relation of him the said I. I., absolutely, and for a good and valuable consideration, all the personal estate and effects whereof he was possessed, or unto which he was entitled, and that, by virtue of the said assignment, the said W. I., or such other person or persons in whose favour such assignment is pretended to have been made, became well entitled thereto, and the same were accordingly delivered

delivered unto him, or them, by the said I. I. in his life-time, but the particulars of such assignment, or to whom the same was made, the confederate W. I. refuses to discover.

Charge contrary,

And that the said confederate ought to admit assets, &c. on account, &c. And Plaintiff further charges, that in case the said I. I. did really execute any such deed or deeds, instrument or instruments, in writing, as are hereinbefore pretended to have been executed by him, and did thereupon deliver such personal estate and effects to the said W. I., or any other person or persons, (but which Plaintiffs do not admit) the said I. I. was, at the time of the date and execution of the said pretended deeds, indebted to several persons to a considerable amount, and such deed or deeds, instrument or instruments, were or was executed by him, and such personal estate and effects delivered by him, with a view, and for the sole purpose of defrauding his creditors, and to elude the payment of the debts by him contracted; and such deed or deeds, instrument or instruments, and the delivery of such effects, was and were voluntary and fraudulent, and without any valuable consideration whatsoever, really and *bonâ fide* paid by the said W. I., or the said person or persons in whose favour the same are pretended to have been made, but the same was or were made to him or them in trust for the said I. I., or with intent to screen his estate and effects from his creditors, or some or one of them, and to prevent the same from being applied in payment and satisfaction thereof; that in case any consideration whatsoever was ever paid by the said W. I., or any other person or persons, to the said I. I. for such deed or deeds, instrument or instruments, or delivery of such effects, but which Plaintiffs do not admit, the whole or some part thereof was returned to the said I. I. by the said W. I. or such other person or persons, or some person in trust for him or them, or he or they, was or were in some manner repaid the same, and such consideration was merely colourable; and Plaintiffs are advised, and humbly insist, that the execution of such deed or deeds, instrument or instruments, and the delivery of such effects, was a gross fraud upon the fair and just creditors of the said I. I., and ought therefore to be set aside, and such deed or deeds, instrument or instruments, delivered up to be cancelled; and that the said W. I., and such other person or persons to whom or in whose favour such deeds are pretended to have been made, and such personal estate and effects as have been possessed and received by him or them, by virtue or under colour of such deed or deeds, instrument or instruments, or which were delivered to him or them by the said I. I. in his life-time. But nevertheless, &c.

Pretence of Illegitimacy, and Charge of Marriage between Plaintiff's Father and Mother.

Defendants combining, &c. alledge some doubts have arisen concerning Plaintiff's legitimacy; and in consequence of such doubts the said other Defendants have set up a claim to the residue of the said Testator's real estates, pretending that the said R. H. was never married to A. W.,
by

by whom he had Plaintiff, and that therefore, upon the death of the said R. H., the equitable interest in all the said real estates descended to Defendants A. and B., as his heirs at law.

Charge.

That the said R. H. was married to the said A. W., and that they lived together as man and wife for eight years, and were acknowledged and visited as such by all their relations, friends, and acquaintance. That the baptism of Plaintiff was registered as the son of the said R. H., by the said A. his wife; and that the burial of the said A., the Plaintiff's mother, was registered as of the wife of the said R. H., all which facts and circumstances are, as Plaintiff insists, ample and sufficient evidence of the marriage of the said R. H. with the said A. W., and clearly prove the legitimacy of Plaintiff, and that as being the undoubted heir at law of his said late father he is well entitled, &c.

Pretence, &c. where Defendants claim under a Recovery.

Pretend that the said R. A., the son, in the year duly suffered a Common Recovery, and that, previous to the executing of such Recovery, he duly executed a proper deed or instrument for conveying the same to the person who was the tenant in such Recovery, and declaring that such Recovery should come to the use of the said A. B. and his heirs for ever, and that therefore they, the said confederates, are well entitled thereto in manner aforesaid, and that Plaintiff hath not any just right or title thereto, or to any part thereof.

Charge.

That if the said R. A., the son, did suffer any such Recovery, and did previously execute any such deed or instrument, purporting to be a conveyance of, &c. to the person who was named as tenant in such Recovery, yet no estate in possession of, or in the said, &c. did or could pass thereby, the whole of the said manor, &c. being then vested either in the said I. D., or the said A. A., the widow, &c. for her life, by virtue of, &c. whereby the same were limited to her for her jointure, and therefore, as your Orator is advised and humbly insists, the said Recovery was wholly void and of no effect.

Inquiry.

And if the said Defendants, or any, &c. shall pretend that the said R. A., the son, ever suffered any Common Recovery of, &c. then, that they may set forth whether he previously, and when, executed any and what deed or instrument, purporting to be a conveyance of the said, &c. or any and what particulars thereof, unto the person who was tenant in such Recovery, and whether the said A. A., or D. D., or one and which of them were, or was not living at the time of executing such deed or instrument, and suffering such Recovery.

Pretence

Pretence and Charge in a Bill by Vendors against Vendees, for the specific Performance of an Agreement.

Pretends, that Plaintiff cannot make a good title to the said premises, or such as a purchaser is bound or compellable to accept.

Charge the contrary, and that Plaintiff can make a clear and indisputable title to the said estate and premises, and that the said title hath long since received the approbation of counsel; and that Plaintiff hath caused an abstract of the said title to be delivered to the Defendant, or to his solicitor, and that they, nor either of them have ever made any good and sufficient objections thereto, but nevertheless, &c.

Pretence, Charge, and Inquiry as to a Release, or Discharge, set up by Defendants, and charging Fraud in obtaining the same.

And at some times the said confederate B. pretends, and gives out that the said C. in her life-time executed some deed or other instrument in writing, whereby she acquitted, released, and discharged him, the said B. from the payment of all sums and sum of money due from him in respect of the matters aforesaid, and from all claims and demands whatsoever in respect thereof, or to some such or the like purport or effect.

Charge.

Charges the contrary thereof to be true, and moreover that the said C. never did make any such release or discharge to him the said B., as hereinbefore pretended; or if she did give or execute the same (but which Plaintiff does not admit) she was grossly deceived and imposed upon in relation thereto, and that the same was obtained from her, or she was prevailed on to execute the same by some unfair means or practices used in that behalf by the said B. And as evidence thereof Plaintiff charges that the said C. never gave any directions or instructions whatsoever to any person to prepare the same, nor was the same drawn or prepared by any person employed by or on the behalf of the said C., but that such pretended release or instrument, if any such there were, was drawn or prepared by or under the order or directions, or from the instructions of the said B. and by some person employed by him. And Plaintiff moreover charges that no draft of the said pretended release or instrument was perused by the said C., or any person on her behalf, at any time previous to the execution thereof, nor was the same sent to or laid before any person for such purpose. And Plaintiff further charges that the said pretended release or instrument was produced and brought to the said C. ready drawn and prepared for execution, and she never perused or read over the same, nor was the same read over to her, or however not truly in her hearing, nor were the contents thereof made known or fully explained to her at any time previous to, or at the time of the execution thereof; but the said pretended release or instrument was stated or represented to her to be of some purport, tenor, or effect, different

different from what the same really was, and that she would not have signed or executed the same in case she had known or been fully apprised of the real purport, tenor, and contents thereof. And Plaintiff further charges, that a considerable sum of money was due and owing from the said B. to the estate of the said C., Plaintiff's father, and also to the said C. or one of them, on the accounts aforesaid, at the time of the execution of the said pretended release or instrument, notwithstanding which the said B. did not pay all or any part of such money, nor any sum of money whatsoever, as the consideration for her executing the said pretended release or instrument, nor did the said C. receive any other consideration whatsoever for the same; but nevertheless the said B. refuses to discover or disclose, as Plaintiff humbly insists he ought to do, by whom and from whose orders and instructions, and by whose directions the said pretended release was drawn or prepared, and where, in whose presence, and when the same was executed by the said C., and the names and places of abode of the subscribing witnesses thereto. And under the circumstances aforesaid Plaintiff charges and insists that the said pretended release or instrument (if ever such was executed) ought to be delivered up to be cancelled, as having been fraudulently and unfairly obtained from the said C.; but nevertheless the said confederate insists upon the contrary, and claims the full benefit of the said pretended release or instrument, and threatens and intends, in case Plaintiff shall proceed at law against him, touching the matters aforesaid, to set up the said pretended release or instrument in bar thereto, or to any action to be brought in that behalf, &c.

Inquiry.

And in case the said B. shall pretend that the said C. in her life-time executed any deed or other instrument in writing, whereby she acquitted, released, or discharged him the said B. from the payment of all or any sums or sum of money, due from him the said B. in respect of the several matters aforesaid, then, that he may set forth the same in the very words and figures thereof, and may produce and leave the same in the hands of his clerk in Court for the usual purposes, and that the said Defendant may set forth and declare whether the said pretended release or instrument was prepared by any person, and whom by name, employed by or on the behalf of the said C., and whether the said C. did ever really execute or sign the same, and when or about what time and where she signed or executed the same; and whether she was not grossly, or in some and what manner imposed upon in relation thereto, and that the said Defendant may also set forth the names and places of abode, of all and every the persons who were then present, and whether they or any and which of them, or at any and what other time, set and subscribed their or his names or name as witnesses or witness thereto, in her presence, and may also set forth the places of abode of such witnesses or witness thereto, and by whom such writing was prepared and drawn, and particularly whether or not by him the said Defendant, or by his orders and directions or procurement, or by some and what person or persons employed by him in that behalf, and where the persons live who prepared such writing, and whether the said C. deceased ever, and when, and on what occasion, and in what manner, and whether in writing,

writing, or how otherwise, and where, gave any and what directions or instructions, and to whom, for preparing the same, or declared any intention of making such writing, and how she at such time or times expressed herself relating thereto; and that the said Defendants may set forth the names and places of abode of all persons who were present at the time or times of giving such directions or instructions, or making such declaration or declarations, and if the same were or was given in writing, then that he may set forth whether the same are, or are not now, or at any and what time or times, and when last were or was in his custody or power, or what is become thereof, and of whose hand writing the same are, and may set forth the same in the very words and figures thereof, or at last as fully and particularly as he is by any means able; and may also set forth the particulars of such directions or instructions, which were not in writing, as fully and as near thereto as he is by any means able, and all and every the reasons why the same were not given in writing, and whether such writing was wholly agreeable to such instructions, or did not, in some and what manner, differ or vary therefrom, and for what reason; and whether any draft or copy of the said pretended release or instrument was delivered to the said C., or any and what person on her behalf, at any time, and how long before the execution or signing thereof, or why not; and whether the said pretended release was read over by her, or by any and what person on her behalf, and whether or not truly in her hearing any, or how long time before, or at the time of her executing or signing the same; and whether any and what information and representation was then, or at any and what time before given or made to her, and where, and by whom, in whose presence, with respect to the nature and contents and effect of such instrument or writing; and may set forth all and every the particulars of such information and representation, and whether each and every, or any and what particulars thereof was or were wholly, or in any and what respect true or false, and all and every the reasons why such false information or representation was given or made; and whether, at the time of executing and signing the said pretended release or instrument, she by any and what means knew or understood the operation, nature, or purport thereof, or whether she did not then understand or apprehend the same to be of some and what purport or effect different from what the same really was; and whether the said C. would have signed or executed the same, if she had known or been in any manner apprised of the real purport, tenor, and contents thereof. And that the said Defendant may set forth whether a considerable, or some and what sum of money was not due and owing from him the said Defendant to the said estate of the said D., and also to her the said C., or to one and which of them on such account as aforesaid, or on some and what other account, at the time of the execution of the said pretended release, and whether the said Defendant did then pay all or any and what part of such money, or any and what other sum of money, as or for the consideration for her executing or signing the said pretended release or instrument, or whether the said C. did really and *bonâ fide* receive any and what other consideration for the same; and that the said Defendant may set forth the real particulars of such consideration, (if any such there was) and of what the same and every part thereof consisted, and how and in what manner, and when and where the same, and every or any part thereof was

paid, given, or received, and that the said Defendant may set forth whether he does not threaten to set up the said pretended release in case Plaintiff should proceed at law against him, touching the matters aforesaid in bar thereto, or to any action brought in that behalf, &c. May it please, &c.

Pretences, Charges, and Inquiries, in a Bill brought for the Discovery of the Account upon which a Remittance was made, Plaintiff claiming Part of it as a specific Remittance for him.

Sometimes pretend that they never received such remittance or sums of money as aforesaid, or any other remittance or sum or sums of money from the said I. C. on account of the produce or money arising from, or by the sale of the aforesaid cargo or any part thereof, or any directions to pay or apply the same. But at other times, admitting the contrary thereof to be due, they pretend that they have long since accounted with Plaintiff for the same, and paid unto Plaintiff one equal third part thereof, and that Plaintiff hath not now any demand on them, or either of them, in respect thereof.

Charge contrary, and so at other times, &c.; but then they pretend that the remittances made unto them by the said I. C. in manner hereinbefore mentioned, were made to them generally on account of the said I. C., and not on the account, or for the use of the owners or other persons interested in the said cargo, nor on the particular account of the produce or money arising by sale of the said cargo; and that therefore they placed the same generally to the account of the said I. C. to whom alone they pretend that they are accountable for the same, and that therefore they are not liable to account for, or pay the same or any part thereof to Plaintiff, but that Plaintiff must resort to the said I. C. for payment or satisfaction, in respect of the money received by him for the sale of the said cargo.

Charge.

Contrary, and also that the said bill, for the sum of £
or the sum of £
, never was the property of the said I. C.; nor was the same, nor any of the money arising by the sale of the said cargo, remitted or sent to the said confederates by the said I. C., on his own private account with them, or to be placed to his own credit with them, but the same was meant and intended, and ought to be considered as a specific remittance of the produce or money arising by sale of the said cargo, to be placed to the credit of the owners thereof, or of the persons interested therein; and therefore the said confederates have not nor ever had any right or authority to place the same or any part thereof to the general account depending between them the said I. C., or to any other account than that of the owners of the said cargo, to whom such money belonged, or for whose use and on whose account the same was remitted or sent to them the said confederates, who are or ought to be considered as trustees for the said owners, in respect of such money, and therefore Plaintiff humbly insists that the said confederates are accountable for,

for, and liable to pay unto Plaintiff, one-third part of all such monies as have been remitted to and received by them on account of the produce of the sale of the said cargo. Moreover charges, that the said sum of £ , was originally placed by the said confederates in their books or book of account to the credit of the owners of the said cargo, or to some such or the like account, and not to the credit or account of the said I. C. with the said confederates, and so the same would appear in case the same confederates would set forth all and every the entries of their books of account relating to such remittances, and the matters and transactions aforesaid, and would produce and shew to the Plaintiff the books of account in which such entries were made, and which Plaintiff humbly insists they ought to do, but which nevertheless they refuse to do. And Plaintiff moreover charges, that the said confederates for some time after the aforesaid remittances were made to them by the said I. C. meant and intended to account for and pay unto Plaintiff his third part or share, or such other part or share as he was entitled to, of and in the produce of the sale of the said cargo, and which was remitted or sent to the said confederates as aforesaid, but that the said I. C. having become insolvent, or in desperate circumstances, and being indebted to them in some very large or considerable sums of money, they have formed a plan or scheme to discharge or reduce the debt due and owing to them by the said I. C. by placing the produce of the sale of the said cargo so remitted to them as aforesaid, to the account of the said I. C. and applying the same as the property and effects of the said I. C. and that the said confederates never meant or intended to apply the same in that manner, or to place the same to the separate account of the said I. C. until he became insolvent or in desperate circumstances; and that they would not have attempted the same in case the said I. C. had continued solvent or in good circumstances, and that the said confederates considered themselves as debtors to the said owners of the said cargo for the amount of the said monies so received from the said I. C. particularly to Plaintiff for his part, share, or proportion thereof, until the said I. C. became insolvent or in desperate circumstances, or until they suspected the solvency or responsibility of the said I. C.

Charge.

Further charges, that besides the several letters, papers and writings hereinbefore mentioned, and charged to be in the custody or power of the said confederates, they the said Defendants have now, or lately, or at some time had in their or one of their custody or power, sundry letters, notes, or written messages, copies, drafts, abstracts, or extracts of letters, notes, or written messages, which were written or sent by them the said confederates, or one of them, or received by them from, or which passed between them, or one of them, and the said I. C. and W. H. or some other person or persons, relating to the matters and transactions aforesaid, and particularly the remittance made unto them the said confederates in manner aforesaid, on account of the produce or money arising by the sale of the said cargo; and also various other papers and letters, memorandums and writings, relating to or in some manner concerning the said matters and transactions, unless the said confederates have wilfully and intentionally burnt, destroyed, altered, obliterated, or defaced the

said letters and other papers, which, in case the same was done, was with a view to prevent a production thereof, and of the several matters and information therein contained.

Pretence and Charge in a Bill for the Payment of an Annuity charged on an Estate lately purchased by Defendant, charging him with Notice.

And at some times the said confederate pretends, that he purchased the said estate and premises for a full and valuable consideration, without notice of the said annuity or yearly rent-charge thereon, and therefore he insists, that although the said yearly rent-charge may not have been redeemed, yet he ought not to be affected thereby.

Charge, not a valuable Consideration.

Charge, that the money paid by the said confederate for the purchase of the said estate and premises, was not a full and valuable consideration for the absolute purchase of the fee-simple and inheritance thereof, free from the said yearly rent-charge, and that he, or some attorney or agent concerned for him in or about such purchase, or preparing the conveyance executed on the occasion, before, or at the time of the execution thereof, or payment of such purchase-money or some part thereof, had some knowledge, notice, information, belief, or suspicion, or reason for belief or suspicion, and did in his conscience believe or suspect, that the said estate and premises, or some part thereof, were or had been subject or chargeable with the payment of the said annuity or yearly rent-charge, and particularly the said Defendant, or such attorney or agent, before or at such time read, or had in his custody, or saw, a copy, abstract, or extract of the grant of the said yearly rent-charge, and also some receipt or receipts for the same, and some letter or letters, or copies, drafts, or extracts of some letter or letters relating thereto. And the said yearly rent-charge was deducted or mentioned in some particular of the said estate and premises which was delivered to him the said Defendant, or some attorney or agent for him, previous to his purchase thereof; and regard was had thereto in settling the price to be paid by the said Defendant for the said estate and premises, by deducting a considerable sum as the value of the said yearly rent-charge; and out of the value of the said estate and premises to be sold free from such charge, and a further deduction was also made thereout, in respect of the great arrears of the said yearly rent-charge at that time, and the said yearly rent-charge was excepted or otherwise mentioned in the conveyance of the said premises to the said confederate, or otherwise by some covenant or clause in such conveyance, or by some separate deed or writing, he the said Defendant was indemnified against any demand in respect of the said yearly rent-charge, or the arrears thereof, or to some such or the like effect. And therefore Plaintiff is advised, and humbly insists, that the said estate and premises are now liable to the payment of the said annuity or yearly rent-charge, and the arrears thereof.

*Pretence of Mortgage, in a Bill brought for Sale
or Mortgage of Estates.*

And the said confederate pretends, that the said estate and premises have been duly conveyed to him by way of mortgage for securing the principal sum of £ or some other principal sum or sums, with interest for the same, and therefore he refuses to join in any sale or mortgage of the said premises for the purposes aforesaid, unless his said principal money and interest shall be in the first place paid and satisfied, although he refuses to discover the particulars of such mortgage, or how much is due to him for principal, and how much for interest thereon.

*Pretence that a Legacy and Annuity left to Plaintiff,
were in Discharge of a Bond and of her Dower.—
Charge contrary.*

That in the year , the Defendants T. and W. P. paid Plaintiff A. the sum of £ , secured by said bond as aforesaid, but as to the said legacy and her said annuity, they under various pretences decline to pay the same, and particularly pretend, that Testator made no such will, and if he did, they dispute the validity thereof; and the Defendants insist, that the sum of £ in or by the said bond or obligation made payable to Plaintiff, was by the said Testator intended to be satisfied and discharged by the said legacy of £ bequeathed to her by said will, as well as by the said annuity of £ per ann. therein devised to Plaintiff, and that Defendants having satisfied and paid such sum of £ , she is entitled to no further benefit under said will, whereas Plaintiff insists that she was entitled to both. And Defendants insist that Plaintiff is not entitled to dower out of the real estates of the said Testator, but that the annuity of £ per annum, given and bequeathed to Plaintiff, was by the Testator intended to go in satisfaction of Plaintiff's dower, or thirds at common law, of the whole real estate of the said Testator, and that she ought to be put to her election, whether she will abide by said annuity of £ per annum, or insist on her dower of said real estate of said Testator, but that she ought not to be permitted to enjoy said annuity and her said dower at one and the same time. Plaintiff insists that said annuity of £ per annum is by no means an equivalent in point of value to Plaintiff's dower of all the real estates of the said Testator, and in the next place, because said annuity is merely and only charged on that part of the real estate of Testator, which by his will is devised and given to Defendant T. P. And Defendants insist, that supposing that said Testator did make such will as stated in said Bill, yet said Testator did not thereby charge his real estate with the payment of his debts and legacies, but merely and only with said two annuities. Charge, that said Testator T. P. being the absolute proprietor of his real and personal estates, and having by his said will directed and ordered that all the legal debts, legacies, and funeral expenses should be in the first place paid and discharged, amounts to a charge of all his said debts upon his said real estates; and in case it should appear that the
personal

personal estate of Testator is sufficient to satisfy his debts and legacies, which Plaintiff in no sort admits, then, and in that case the real estate of said Testator, or so much thereof as shall be sufficient, ought to be sold and disposed of, and that out of the money to arise by such sale, Plaintiff's said legacy of £ ought to be paid, and that such estate ought to be sold and disposed of subject to said annuity of £ per annum, as well as to her dower or thirds of the real estate of said Testator; and the Defendant T. P. ought to pay Plaintiff the arrears, as well as future growing payments of the said annuity of £ per annum, so charged on the real estate, and so devised to him. And Defendants ought likewise to be compelled to pay Plaintiff her dower or thirds at common law, out of and in respect of all the real estates of said Testator, and that Plaintiff's title, as well as her dower as to the said annuity of £ per annum, ought to be established and declared by the decree of the Court.

Charge in a Bill by Vendee against Vendor, for the specific Performance of an Agreement.

That soon after the making and entering into the aforesaid contract, Plaintiff made, or caused to be made, sundry improvements and additions to, in, or upon the said premises, in confidence of the faithful performance of the said agreement on the part of the said Defendant, and that he exhausted sundry sums of money thereon, to the amount of several hundred pounds in the whole, and that such improvement and additions were made with the knowledge or privity of the said Defendants, who permitted Plaintiff to go on and proceed therewith without making any objections, or intimating to Plaintiff his intention of refusing to abide by the said contracts, or to perform the same.

Charge.

And charges, that Defendant never meant or intended to object, or thought of objecting to the said agreement, or to the performance thereof on his part, until Plaintiff had so made or begun such improvements and additions, and as an evidence thereof, &c.

Pretence and Inquiry, where the Attorney-General is a Party, on Account of a Debt due to the Crown.

*Defendants pretend that the said Testator was in his life-time, and at the time of his death, greatly indebted on bond and otherwise, and particularly that a large sum of money was due and owing from him to his Majesty, in respect of the balance of the said Testator's accounts as Receiver of the land tax and otherwise, and his Majesty's Attorney-General, on behalf of his Majesty, claims a large debt to be owing to his Majesty on such account, but refuses to discover the particulars of such debt, &c.

Inquiry.

That his Majesty's Attorney-General may answer and set forth whether any and what sum of money is now remaining due to his Majesty,

in respect of any and what debt or debts which was or were, in any and what manner, and on what account owing to his Majesty from the said Testator at the time of his death; and whether the whole or any, and what part of such money was secured by any and what deed or deeds, writing or writings, and where and by whom executed, and may set forth the debts and material contents thereof.

Charge by Residuary Legatees against Executors, for selling the wrong Stock, whereby they diminished their Reversionary Interest.

And your Orator further charges, that a part of the personal estate of the said Testator consisted of Imperial Annuities for years only, and other part thereof consisted of funds or stock of a permanent nature, and that the said Defendants the Executors sold out part of the permanent funds for the payments of debts and legacies, and have kept the whole of the said Imperial Annuities, whereby they have increased the annual income of the said Defendant A. H. to the prejudice of the reversionary interest of your Orator in the residuary estate of the said Testator.

Pretence, Charge, and Inquiry, as to the due Execution of a Will, in a Bill brought to establish a Will.

But then he pretends that the said A. did not make such will in writing, or however that he was not of sound and disposing mind and memory at the time of making the same, or that he was imposed upon in the making thereof, and that therefore the same ought not to have any effect as his will, and consequently that neither of the said Plaintiffs hath any right to the said premises, but that upon the death of the said Testator the messuages, &c. descended to him the said Defendant as his heir at law.

Charge.

The contrary, and that the said A. did really make such last will and testament as aforesaid, and that he was at the time of making the same of sound and disposing mind, memory, and understanding, and that he was not in any manner imposed upon therein, or in relation thereto, and that the same was prepared by his direction of and from instructions given by him, and that the same was read over by him, or some person in his hearing, before or at the time of his executing the same, and that he then well knew and understood the contents and meaning thereof.

Inquiry.

Whether the said A. did not make some such will, &c. Whether he was not of sound, &c. Whether the same was not prepared by his directions. And whether he did not give instructions, and to whom, for preparing the same. And whether the same was not read over by him, or by some and what person in his hearing, some and how long time before, or at the time of his executing the same. And whether he did not fully, or in some and what degree know and understand the purport and

and contents of such will, at the time of his executing the same. And whether he was in any and what manner imposed upon therein, or in relation thereto, and may set forth all and every the particulars of such impositions.

Pretence, Charge, and Prayer, in a Bill for Redemption of Premises mortgaged to Defendant.

Defendant, J. S. pretends that the rents and profits of the said mortgaged premises, during his possession thereof, have not been more than sufficient to keep down the interest on the principal sum paid by him as the contractor for the said assignment of the said mortgage. Whereas Plaintiff charges the contrary thereof to be the truth; and so it would appear, if the said Defendant would set forth, as he ought to do, a full, true, and perfect rental and particular of all and singular the said mortgaged premises, and by whom the same have been respectively occupied, since the possession thereof by the said Defendant, and at what yearly and other rent and value, and a full and true account of all and every sum and sums of money received by the said Defendant, or for his use, for the rents and profits of such premises, and when and from whom, and for what in particular the same were so received.

Charge, that the said Defendant hath, from time to time, kept account of the rents and profits of the said premises, as the mortgagee thereof, and hath, in other respects, long since the said assignment so made to him as aforesaid, treated and considered himself as the mortgagee of the said premises; and in particular Plaintiff charges, that the said Defendant, some time since, caused a bill for the foreclosure of the equity of redemption of the said mortgage, to be filed in some court of equity, or to be prepared for that purpose; and the said Defendant, at some time, pretends, that the said equity of redemption was absolutely foreclosed by the decree of some competent court, but the particulars thereof, and in what court, the said Defendant refuses to discover.

Charges, that if any such decree was made, that the same is not binding upon Plaintiff, inasmuch as the said G. A. who was then entitled to the said equity of redemption, was not a party thereto.

Prayer.

Charges, that the said Defendants, M. S. I. S. and M. B. claim some right and interest in the premises; but how they make out the same they respectively refuse to discover. All which, &c. That an account may be taken of the principal money paid by the said Defendant J. S. on the assignment of the said mortgage so made to him as aforesaid, and of the interest which hath since accrued thereon; and also an account of the rents and profits of the said mortgaged premises, which have been possessed or received by the said Defendant, or any other person or persons by his order, or for his use, or which, without his wilful default or neglect, might have been received, and what shall be coming on account of the said rents and profits, may be applied, in the first place, in payment of the interest, and then in sinking the principal due to the said Defendant, on the said mortgage, and the residue, if any, paid over to Plaintiff; and

and that the said Defendant, in such case, or if it shall appear that any thing is remaining due to the said Defendant on the said mortgage, then, upon payment by Plaintiff of what is due, may be decreed to assign the said mortgaged premises to Plaintiff, or to whom he shall appoint, free from all incumbrances, done by him the said Defendant, and may deliver up the possession of the said mortgaged premises to Plaintiff, together with all deeds and writings relating thereto. [And for general relief.]

Charge and Inquiry, as to Entries and Letters.

And so the same would appear, from divers entries and *memoranda*, or some entry or memorandum made by them, the said confederates, or one of them, in and upon some books or book of account, papers, or paper writings or writing, in their or one of their custody, possession, or power, unless they have wilfully or negligently lost or destroyed, defaced or altered the same, and also from divers letters which passed between them, or one of them, and the said W. M. or Plaintiff, and the same or some copy or copies, extracts or extract thereof, or therefrom, now also are or is in their, or one of their custody, possession, or power, unless they have wilfully and designedly lost or destroyed, obliterated or defaced the same, &c.

Inquiry.

And that the said confederates may set forth, whether they, or one and which of them, or some and what persons or person, on their or one and which of their behalf, have or hath not made some and what entries or *memoranda*, entry or memorandum, in or upon some and what books or book of account, papers or paper writings or writings, of or concerning all or some, or one, and which of the matters aforesaid. And whereas all or some, or one, and which of such papers or writings, are or is not now, or at some and what time or times, and when last in the custody, possession, or power, of them the said Defendants, or one and which of them, or some and what persons or person, on their or one and which of their behalf, or what are become of the same respectively. And that they may also set forth a full, true, and exact list or schedule thereof, and may produce and leave all such last mentioned books, papers, and writings, in the hands of their clerk in Court, for the usual purposes. And whether any such entries or *memoranda*, or any and which of them, or some and what parts or particulars thereof respectively, have or hath been, since the making thereof respectively, in any and what manner, altered, obliterated, defaced, burnt, tore, or otherwise and how destroyed, and when and by whom, and whether or not by the direction or with the consent or privity of them the said Defendants, or one and which of them, and whether or not intentionally or designedly, and for what purpose, and with what view, intent, or design. And whether some, and what letters or letter, written messages or message, did not, and when, pass between them the said Defendants, or one and which of them, and the said W. M. or Plaintiff, touching or concerning all, or some or one, and which of the matters aforesaid. And whether all or some or one and which of such letters, or some and what drafts or draft, copies or copy thereof, abstracts or abstract, extracts or extract therefrom, are or is not now, or at
some

some and what times or time when last were, or was not in the custody, possession, or power of them the said Defendants, or one and which of them, or some and what persons or person, or their or some or one, and which of their behalf, or what are or is become thereof. And that they may set forth a true and exact list or schedule thereof, and may leave all such last mentioned letters, drafts, copies, abstracts, or extracts, in the hands of their clerk in Court, for the usual purposes. And whether such letters, or any and which of them, have or hath been burnt, torn, or otherwise, and how obliterated, destroyed, altered, or defaced, and when and by whom. And whether or not by the directions, or with the privity or consent of them the said Defendants, or one and which of them, and whether or not intentionally or designedly, and for what purpose, and with what view, intent, or design.

And your Orator charges, that several letters, notes, and messages, have been written and sent to and from, and passed between the Defendants respectively, and some other person or persons, touching and concerning the several transactions and matters aforesaid, or some of them, relating thereto, and all or most of them, or some drafts, copies, extracts, minutes, and *memoranda* thereof, now are or lately were in the custody or power of the Defendants, or some or one of them, or some person, with their privity; and they can and ought to produce and state the contents thereof, and the Defendants, some or one of them, or some person, with their privity, have, or lately had, in their custody or power, several deeds, instruments, letters, papers, and writings, or drafts, copies, extracts, minutes, or *memoranda*, of deeds, instruments, letters, papers, and writings, whereby the means and contrivance made use of by Defendants to disappoint your Orator, and all or most of the transactions and matters herein stated, or some of them, will appear, or in anywise tending to a discovery thereof, and partly all or most of the deeds, instruments, letters, papers, and writings, hereinbefore mentioned, or referred to, or copies, drafts, minutes, extracts, or *memoranda* of the same, and which would materially assist and enable your Orator to commence and prosecute the intended action and actions to be brought by and at the suit of your Orator, against the Defendants respectively, provided he would compel a production and discovery thereof, but which he is unable to do, or obtain a full and fair discovery, touching the transactions and matters aforesaid, without the assistance of a Court of Equity.

Inquiry.

And whether some and what letters or letter, notes or note, messages or message, have or hath not been written or sent to or from, or passed between the Defendants respectively, or some of them, or some other person or persons, touching the transactions or matters aforesaid, or some and which of them, relating thereto, and where and in whose custody or power are the same, and each and every of them, or what is become thereof, and whether all and every, or some and which of them, or some and what drafts, copies, extracts, minutes, or *memoranda* thereof, or of some and which of them, are or is not now, or lately, or some time, and when last, were or was in the custody or power of the Defendants respectively; or which of them, or some and what person, with their and which of their privity; and that the Defendant may severally state a list or schedule

rule thereof, and produce and leave them in the hands of their clerk in court, for the usual purposes; and whether the Defendants, and which of them, or some and what person, with their, or which of their privity, have or hath not now, or lately, or some time, and when last, had in their, or which of their custody or power, several or some, and what deeds or deed, instrument or instruments, letters, papers, or writings, or some and what draft, copies, extracts, memorandum or memoranda of the same, or which of them, whereby all and every, or some, and which of the transactions or matters hereby alledged or enquired after, will appear, or tending to a discovery thereof; and that the Defendants may severally state a list thereof, and produce and leave the same in the hands of their clerk in Court, for the usual purposes.

Prayer.

And that your Orator may have a full and fair disclosure and discovery of all and every the matters and transactions hereby alledged and inquired after, in order to enable him to bring and support an action or actions at law, at his suit, against the defendants respectively, touching the premises and matters aforesaid, and to aid and assist him with evidence for that purpose.

Charge, Inquiry, and Prayer, in a Bill against Executors, for an Account of Leaseholds and Household Goods, &c.

Charge the contrary thereof to be the truth; and so it would appear if the said Defendants would set forth, as they ought to do, a full, true, and particular account of all and every the leasehold houses, messuages, tenements, and premises, of which said Testator died possessed, or entitled to, and under whom and at what rents, and for what terms the same are respectively holden, and what are the rack rents or annual value thereof, and what hath been received by them in respect of such rents, since the death of the said Testator. And also, a full, true, and particular account of the household goods, furniture, stock in trade, plate, watches, rings, and jewels, of which the said Testator was possessed at the time of his death, and of the debts due and owing to him; and of all other the personal estate and effects of the said Testator. And also a full, true, and particular account of the manner in which said Defendants have disposed of or applied the same respectively. But which said Defendants refused to do. To the end, therefore, that the said Defendants may set forth, &c.

Prayer.

(The interrogatory will be verbatim the same as the charging part.) And that the said Defendants may answer the premises, and that an account may be taken of the personal estate and effects of said Testator, which have been possessed by or come to the hands or use of said Defendants, or either of them. And also an account of said Testator's funeral expenses and debts; and that the same may be paid in a due course of administration; and that said Defendants may

may be decreed to deliver up to Plaintiff M. N. such parts aforesaid of Testator's personal estate as are specifically bequeathed to them, and to account for and pay over to them, in equal moieties, the rents, issues, and profits of said Testator's nineteen leasehold houses, and other houses, and other messuages and premises, to which they are jointly entitled during their lives, and which have accrued due since the death of said Testator. And that some proper person may be appointed by the Court to receive such rents, issues, and profits in future. And that said Defendants may also be decreed to account for and pay over to Plaintiffs M. N. in equal moieties, the residuary estate of said Testator, not specifically bequeathed; and that, for these purposes, all necessary directions may be given. And for further relief.

Pretence of Right to real Estate and Inquiry thereto, and Prayer.

Pretend that they or some or one of them have or hath some other right or interest therein as aforesaid, to or in the said real estate or some part thereof, but they refuse to discover the particulars thereof, or how they derive or make out the same. And at other times they pretend that there are or is some mortgages or mortgage or other incumbrances on such estate, or part thereof, but then they refuse to discover the same or any part thereof. And they or some or one of them, have in their, his, or her custody or power, the title deeds and writings relating to such estate or part thereof, but they refuse to produce the same or any of them.

Inquiry.

And that the said confederates may set forth what right, title or interest they respectively have, or claim, in or to the real estate of the said I. D. or any and what part thereof, and how and in what manner they derive and make out the same, and by and under what deeds or deed, writings or writing, and that they may set forth the dates and contents of all such deeds and writings, and that they may set forth whether there are or is any, and what mortgages or mortgage, incumbrances or incumbrance, upon or affecting such estate, or any and what part thereof, and when and by whom and to whom, and by what deeds or writings or otherwise, and how and what consideration, and for which sums the same were or was made or created, and in whom the same are or is invested, and for whose use and benefit, and what sum or sums of money are or is due thereon, and to whom, and where all and every such persons live, and that they may set forth what are become of the title deeds and writings relating to the said estate; and that they may also set forth the names and places of abode of all and every person and persons in whom any legal or equitable estate, right or interest, charge or incumbrance to, in, or upon the said estate, in possession, reversion or remainder, is vested, and the particulars of such estate, right, title or interest, charge or incumbrance, and how and in what manner the same became vested in such person or persons, under what deeds or deed, writings or writing; and that his Majesty's Attorney-General may answer the matters aforesaid, and set forth whether he on behalf of his Majesty, claims any and what right, title or interest in or to the said

said estate and legacies aforesaid; and any and which of them, or any and what part thereof, and how and in what manner, and by what means.

Prayer.

And that an account may be taken of the money due for the legacy of £ given to the said G. D. and interest thereof, and that the same may be paid to Plaintiff out of real estate of said I. D. and that a competent part of said estates may be sold or mortgaged for that purpose; and that all proper parties may join in such sale or mortgage, and in order to such sale or mortgage, that all the title deeds and writings relating to the said estate may be produced, &c.

Inquiry after Title to real Estate.

And that the said confederates may also set forth what right, title, or interest they respectively have, or claim, in or to the real estate, late of the said R. or any and what part thereof, and how and in what manner they derive and make out the same, and by and under what deed or deeds, writing or writings, and may set forth the dates and contents of all such deeds and writings.

Inquiry after personal Estates.

And that the said A. may either admit assets of the said B. come to his hands or use sufficient to answer your Orator's aforesaid demands thereon, or may set forth a full, true and just inventory and account of all and singular the goods, chattels, personal estate and effects whatsoever, which the said B. was possessed of, interested in, or intitled to, at the time of his death, and were not specifically bequeathed by his said will, and all the particulars whereof the same consisted, and the quantities, qualities, full, real and true values of all and every such particulars, and whether all or some, and which of such particulars have not, and when, been possessed or received by, or come to the hands of him the said A. or of some and what person, by his order, or for his use, and how and in what manner, and when and where and by and to whom, and for how much the same and every or any and what parts thereof bath or have been sold or disposed of, and whether any and what parts thereof, and to what value and amount now remain undisposed of, and what are become thereof; and also a particular account of all and every the debts whatsoever, which were justly due and owing from the said B. at the time of his death, and to whom and for what, and on what securities, if any, the same were respectively due, and whether any and what sums of money have been since, ~~been~~ in or towards the discharge of all or any, and which of the said debts, and when and by whom and to whom and for what, and whether any and what sum or sums of money do or doth now remain unpaid on account thereof.

**Inquiry after Interest made of personal Estate.*

And that the said Defendant may also set forth all and every the particulars of the personal estate of the said Testator, which were out at interest at the

the time of his death, and on what government or other security or securities, and in whose name or names, and what rate of interest was payable thereon respectively, and the dates, parties' names, and all other material contents of such private parties; and whether the whole or any and what part of all or any, and which of such principal sums have or hath been continued on such securities respectively, during all or any and what part of the time since the death of the said Testator, and what sum or sums of money have or hath been received, and when and by whom and for whose use, and from whom, by sale of all or any, and what part of the principal money in all or any and which of such government securities, or in or towards discharge of the principal money due on all or any, and which of such private securities; and whether some and what sums or sum of money, which were or was part of the personal estate of the said Testator at the time of his death, and which arose therefrom, have or hath not been since, and when, placed out at interest, in any and what public or private securities or security, and in whose name or names, and at what rate of interest, and what particular sum or sums in such public securities or security were or was purchased, with each of such sums of money, and the dates, parties' names, and all other material contents of all and every such private securities or security; and whether the whole or any and what part of all or any and which of such sums hath ever since the same were so respectively laid out for any and what times or time afterwards continued on such security or securities respectively, and what sums or sum of money have or hath been received, and when and by whom, and for whose use, and from whom, by sale of any and what part of the principal money in all or any and which of such public securities, or in or towards discharge of the principal money due on all or every, and which of such private securities; and that he may also set forth a full, true, and just account of all and every sum and sums of money which have from time to time since the death of the said Testator become due from the interest or dividends of or on or in respect of the personal estate of the said Testator, or the produce thereof, or any part thereof, and when and on what principal sum or security, the same and every particular thereof became due, and a full, true, and just account of all and every sum or sums of money which hath or have been received by or by the order or for the use of him the said Defendant, for or in respect of the interest or dividends of such personal estate, or the produce thereof, or any part thereof, and when and from whom and for the interest or dividends of what principal sums, and on what security, and when due, all and every such sums were respectively received. And that he may particularly set forth whether he hath not at any and what time or times applied all or any and what part of the personal estate of the said Testator, to or for his own use.

Inquiry after Incumbrances on real Estates.

And that the said Defendant may also set forth whether there are or is any or what mortgage or mortgages, term or terms of years, incumbrance or incumbrances upon or affecting the said estates, or any and what part thereof, and when and by whom and to whom, and by what deeds or writings, or otherwise, and how and for what considerations, and for what sums

sums the same was or were made, and in whom the same are or is now vested, and for whose benefit, and what sum or sums of money is or are now due thereon, and to whom, and where all and every such persons live ; and may set forth what are become of the title deeds of the said estates.

Inquiry after Persons entitled to any legal or equitable Interest in Lands.

And that he may also set forth the names and places of abode of all and every the person and persons in whom any legal or equitable estate, right, title or interest, charge or incumbrance, to, in, or upon the said premises in possession, reversion, or reversions is vested, and the particulars of such estate, right, title or interest, charge or incumbrance, and how and in what manner the same became so vested in such person or persons, and under what deed or deeds, writing or writings.

Inquiry after real Estate.

And that the said confederate may set forth whether the said R. was not at the time of his death, seized or entitled in fee-simple, of or to some and what real estate, and that they may set forth a full, true, and just rental and particular thereof, and where the same and every part thereof is situate, and the yearly value of each particular thereof, and in whose tenure and occupation the same and every part thereof is, and under what yearly or other rent or rents, and whether they the said confederate, or some or one and which of them are or is not, and for some time, and how long time past have or hath been in possession or receipt of the rents and profits thereof, or of some and what part thereof, and who by name now are or is, and for how long time have or hath been in possession and receipt of the rents and profits thereof, and by what right or title, and for whose use. And that the said confederates may set forth a full, true and particular account of all and every sum and sums of money which hath and have been received by them or either of them, or any other person or persons by their or either of their order, or for their or either of their use, for or in respect of the rents and profits of the said estate, or any part thereof which have become due since the death of the said R. and when and by whom and for whose use, and from whom and for what rent and of what part of the said estates, and when due, all and every such sums were respectively received.

Inquiry after Fines and other casual Profits of Manor.

And that the said Defendants may respectively set forth a full, true, and just rental and particular of the said manor and estate of A. and of every part thereof, and in whose tenure or occupation the same and every part thereof was from time to time, from, to, and under what yearly or other rent or rents, and when due and payable ; and also a full, true, and particular account of all fines which during the same period of time were set, or arose or become payable, or were agreed to be paid upon the renewal

renewal or renewals of any lease or leases of any estate or tenant, part of the said manor or other estate, and of and from whom, and for the renewal of what lease or leases of what estate or tenement; and also a full and particular account of all other casual profits which in such time arose or became due or payable for or in respect of such manor and estate, and every or any part thereof, and when and for, or in respect of what particular, each and every particular arose and became due; and also a full, true, and particular account of all and every sum and sums of money received by or by the order, or for the use of them the said Defendants respectively, or either of them, for or in respect of the ordinary rents, fines, quit-rents, and other profits of the said manor and estate, and every or any part thereof, which arose and became due between and , and when and from whom, and for what all and every such sums were respectively received.

Prayer.

That an account may be taken of all and every sum and sums of money which hath and have from time to time been received by, or by the order, or for the use of them the said Defendants, or either of them, for or in respect of the rents, fines, heriots, and other profits and emoluments of or belonging or incident to the said manor and estate, and which became due between and

Inquiry in a Bill to stay Waste.

To the end therefore, &c. and whether the said messuages or tenements, and the buildings, gates, stiles, rails, and fences on the said estate or premises were not in good repair and condition at the time of his entering thereon; and whether all the lands, whereof the said tenement or estate consists, were not then in good heart and condition, or whether any and what particulars of the said messuage or tenement, buildings, gates, stiles, rails, and fences were then in any and what respect or degree out of repair or in bad condition; and whether any and what particulars of the said lands were then in any and what respect or degree in bad heart or condition; and whether he the said Defendant hath constantly since he hath been in possession, &c. of the said estate or tenement kept the said messuage or tenement, and all the said buildings, &c. in good repair and condition, or whether some and what particulars are not now in some and what degree out of repair, or in bad repair, and particularly whether or not in some and what respect or degree in a worse state of repair than the same respectively were at the time when he the said Defendant entered thereon, and how long time the same have been so, and how much, as near as he can compute and form a belief, it would cost to put the same in good repair and condition, and particularly into as good repair and condition as the same were in at the time of his the said Defendant's entering thereon; and whether he hath constantly, since he hath been in possession of the said estate or tenement, used and cultivated the whole of the lands whereof the same consist, in a proper and careful manner, and in a good course of husbandry, according to the method used in the neighbourhood thereof, and the terms and conditions

of the said lease, or whether he hath not and how often used or cultivated such lands or any and what part thereof, in some and what manner, contrary to and different from such method, and the terms and conditions of the said lease, and more to the prejudice of the said lands, and particularly whether he hath not, and how often, and when, ploughed, or caused to be ploughed up, some and what parts of the said lands which by the terms of the said lease he was not at liberty to plough, and may set forth all the particulars of the said lands which by the terms of the said lease he was not at liberty to plough; and the names, quantity, and other descriptions thereof, and whether he hath not, and how often, and when, and in what manner neglected to manure and improve all or some and what parts of such lands, according to the method used in the neighbourhood thereof, and according to the terms and conditions in the said lease; and whether all, or some, and what parts of such lands are not by all, or some, and which of such acts of mismanagement or neglect, or by some and what other means, in some and what respect or degree impoverished, or rendered or become in a worse condition than when he the said Defendant entered thereon; and what time, or how much money, as near as he can compute the same, it will require to put such lands into as good plight and condition as the same were in at the time when he entered thereon.

Prayer to a Bill of Foreclosure.

That an account may be taken of the several sums of money now remaining due and owing unto Plaintiffs respectively, for principal or interest on their said several and respective mortgages and securities; and that said Defendants, or some or one of them, may be decreed to pay unto Plaintiffs respectively, whatever shall be found due and owing unto them on the taking of said account respectively, together with Plaintiffs' costs, by a short time, to be prefixed by this honorable Court, or in default thereof, that said Defendants and all persons claiming under them, and each and every of them, may be absolutely barred and foreclosed of and from all right and equity of redemption to and in said mortgaged estate and premises, and every part thereof, Plaintiffs offering, upon payment of the monies due to them as aforesaid, together with their said costs, to join and concur in all necessary acts and deeds for conveying said mortgaged manors, hereditaments, and premises, in such manner as this Court shall be pleased to direct if it should be necessary for them so to do. And for further relief.

Conclusion to a Supplemental Bill and Prayer.

That the time limited in the aforesaid indenture or deed of covenants being elapsed, and the agreement and engagement thereby made not being performed, Plaintiffs are now entitled to have the benefit of said suit and proceedings therein, and to prosecute and carry on the same against said Defendants, in the same manner as they would have done in case said last mentioned indenture or deed of covenant had not been made, and to have the benefit thereof against said W. H. P. and T. W., assignees of said bankrupt; and that said Defendants ought to answer Plaintiffs said original and amended bill at the same time they answer this

this Plaintiff's supplemental bill; to the end, therefore, that Plaintiffs may have the benefit of said suit and proceedings therein against said Defendants, and may have the same relief against them as they would or might have had in case the said last mentioned deed or indenture had not been made, and S. C. had not become a bankrupt; and in case default shall be made in payment of said principal sums due and owing to Plaintiffs respectively, on their said several and respective securities in said original bill stated, with interest for the same, then that said Defendant S. C. and his heirs, and also his said assignees, and all claiming under them, may be debarred and foreclosed of and from all right and equity of redemption of, in, and to said copyhold premises comprised in said indenture or deeds of covenant. And for further relief.

Prayer to a Bill filed by Partners after the Dissolution, against the present Partners, to have the Stock, Premises, and Effects, sold for Payment of old Debts, and an Injunction to restrain them from alienating the said Concerns:

And that an account may be taken of all and every the debts and demands which were due from your Orators and the said P. J. B. in their copartnership firm of _____ or in respect thereof, at the time of executing the said indenture of the _____ day of _____ and which have not been paid and satisfied by the said P. J. B. or the said other Defendants; and that the said several Defendants may be declared to be answerable for the amount of what shall be found due on such account; and that it may also be declared that your Orators have a lien to the amount of what shall be found due on such account upon the copartnership stock, premises, debts, and effects, which were assigned by your Orators to the said P. J. B. in consideration of his engagement to exonerate your Orators from the payment of such debts; and that, if necessary, the said copartnership stock, premises, and effects, may be sold and applied in satisfaction of such debts, under the decree of this honorable Court, and that all proper directions may be given in that behalf; and that the said Defendants may in the mean time be restrained by the injunction of this honorable Court from alienating the said copartnership stock, premises, and effects; and that the said covenant in the said indenture of the _____ day of _____ whereby your Orators are restrained from engaging in or carrying on any part or branch of making or manufacturing iron under any modification whatsoever, or any articles or utensils made of iron, within forty statute miles of _____ may be reformed, according to the intent and agreement of the partners respecting the same as aforesaid. And for further relief.

J. L.

Prayer to a Bill filed by Heir at Law against Devisee, to recover Possession of Estates.

And that the said Defendants may answer the premises; and that they may produce and leave in the hands of their clerk in Court, or otherwise as this honorable Court shall direct, all deeds, wills, and other writings,

in their custody or power, or in the custody or power of any other person or persons for their use, relating to the estate of your Orator or his ancestors in the said messuage and lands; and that your Orator or his agents may be at liberty to inspect the same and take copies thereof, in order that your Orator may be enabled to pursue such remedy at law for the recovery thereof as he shall be advised. And for further relief, &c.

Interrogatory and Prayer in a Bill against Assignees, for an Account of separate Estate of Bankrupt.

And that the said confederates may set forth a full, true, and just account and particular of the separate estate and effects of the said C. S. which have been sold or disposed of or possessed or received by them or either of them, or by any other person or persons by their or either of their order, or for their or either of their use, and of the produce thereof, and what part thereof now remains in their hands undisposed of.

Prayer.

And that the said Defendants may answer the premises; and that an account may be taken of the separate estate and effects of the said C. S. which have been possessed and received by the said M. M. &c. (the assignees) or either and which of them as such assignees as aforesaid; and also an account of the separate debts of the said C. S. which were due and owing from him at the time of the bankruptcies aforesaid, and that an account may also be taken of the partnership debts which were due and owing from the said C. S. and T. S. at the time of their bankruptcy aforesaid, and which have been proved under the commission issued against them as aforesaid; and also of the partnership debts which were due and owing from the said C. S. &c. at the time of their bankruptcy aforesaid, and which have been proved under the said commission issued against them; and that the separate estate and effects of the said C. S. possessed and received by the said Defendant, which shall remain after payment of his separate debts, may be applied rateably and proportionably between and in satisfaction of the partnership creditors of the said C. S. and T. S. and partnership creditors of the said C. S. &c. and that for those purposes all proper directions may be given. And for further relief.

Prayer to a Bill of Partition.

And that a fair partition may be made of the said premises and of the lands thereto belonging, into three equal parts, and that a commission of partition may issue for that purpose, and that the particulars thereof which shall be allotted to your Oratrix may be duly conveyed to the use of her and her heirs for ever, free from incumbrances, &c. by the said B. and that all proper parties may join in such conveyance, Plaintiff humbly offering thereupon to convey all her right and interest in the other particulars as this honorable Court shall direct, and that the title deeds

and writings relating thereto may be brought into this honorable Court, or left in the hands of some indifferent person for the said G. F. and your Oratrix; and that such of them as shall appear solely to relate to such particulars of the said estate or premises as shall be allotted to your Oratrix may be delivered to her, and that the remainder of the said deeds or writings, or such of them as shall appear to relate jointly or equally to all the said premises, may be preserved and taken care of by this honorable Court, for the mutual benefit and advantage of your Oratrix and the said Defendants; and that your Orator may be at liberty to take copies thereof, and that possession may be delivered to her of the particulars which shall be so allotted to her, &c.

Application and Prayer to a Bill of Partition.

Applied, &c. to join with Plaintiff in making a fair partition and division of the said estate among them or such of them as are really interested therein, according to their respective shares therein, so that each party may enjoy his and their own part in severalty; and the said parties, or some of them, having in their, his, or her custody or power, several deeds and writings relating to the said estate, Plaintiff hath in like manner requested them to deposit the same in the hands of some indifferent person, so that the same may be preserved for the benefit of all persons interested therein.

. Prayer.

And that the parts and shares jointly belonging to Plaintiff and all other persons hereinbefore named, of and in the said estate, may be settled and ascertained, and that a fair partition and division may be made of all such estate between Plaintiff and all other persons who shall appear to be interested therein, and that the particulars thereof which shall be allotted to Plaintiff as his share thereof, may be thenceforth held and enjoyed by him and his heirs for ever, free from all incumbrances, and that all proper parties may join in such conveyance; and that such rents and profits may be divided and paid between Plaintiff and all such other persons, according to such their respective rights and interests therein, and that all the title deeds and writings relating to such estates, or to any of them, may be brought into this honorable Court, and there deposited, for the benefit of Plaintiff and the other persons interested therein; and that after the making of such partition and division, such of the said title deeds and writings as shall appear to relate solely to any particular thereof which shall be allotted to any one person may be delivered to such person, and that the rest of such title deeds and writings may be kept in the hands of one of the Masters of this honorable Court, for safe custody as aforesaid, &c.

Application and Prayer for a Partition.

Plaintiff applied to Defendants to join with him in making a fair partition and division of the estate among them or such of them as were really

really interested therein, and according to their respective shares therein, so that each party might enjoy his and their own part in severalty; and the said several parties, and some of them, having in their, his, or her custody or power, several deeds and writings relating to such estates, Plaintiffs hath in like manner requested them to deposit the same in the hands of some indifferent person, so that the same might be preserved for the benefit of all parties interested therein.

Prayer:

That the parts and shares justly belonging to Plaintiff and all other the parties hereinbefore named of and in the said estates may be settled and ascertained, and that a fair partition and division may be made between Plaintiff and all other persons who shall appear to be interested therein, and that the particulars thereof may be from thenceforth held and enjoyed by him and his heirs in severalty, and that the same may be conveyed to him and his heirs for ever free from all incumbrances, and that all proper parties may join in such conveyances, and that possession of such particulars may be delivered to Plaintiff; and that in the mean time one or more proper person or persons may be appointed to receive the rents and profits of such estates for the benefit of Plaintiff and all other persons interested, and that such rents and profits may be divided and paid between Plaintiff and all such other persons, according to their respective rights and interests therein; and that all the title deeds and writings relating to such estates, or to any of them, may be brought into this honorable Court, and there deposited, for the benefit of Plaintiff and the other persons interested therein; and that after the making of such partition and division, such of the said title deeds and writings as appear to relate solely to any particular thereof which shall be allotted to any one person may be delivered to such person, and that the rest of the title deeds and writings may be kept in the hands of one of the Masters of this honorable Court, for safe custody as aforesaid. And further relief.

Prayer in a Bill against Trustees for selling Part of the Trust Fund, and converting it to their own Use; and Injunction to restrain the Bank from permitting the other Part to be transferred.

And that the said Defendants, R. S. and W. L. may be removed from being Trustees under the said indenture of settlement, and that they may be decreed by this honorable Court to replace all such parts of the said stock as hath at any time been sold out or transferred by them, and that they may be restrained by the injunction of this honorable Court from selling or transferring any part of the said residue of the £ 3 per cent. Consolidated Bank Annuities, now standing in their names; and that the said Defendants, the Governor and Company of the Bank of England, may in like manner be restrained from permitting the said £ 3 per cent. Consolidated Bank Annuities, the residue of the said £ like Annuities, to be transferred without the order and direction
of

of this honorable Court; and that new Trustees may be appointed by and under the direction of this honorable Court, in the room of the said Defendants R. S. and W. L. and that they may be directed to transfer the said sum of £ 3 per cent. Consolidated Bank Annuities to such new Trustees, or as this honorable Court shall direct, and that the dividends thereof may be paid to the said I. P. or his assigns during his life, and after his death, according to the trusts of the said settlement, and for other relief, &c.

*Pray Subpœna and Injunction
against R. S. W. L. and the Go-
vernor and Company of the Bank
of England, and Subpœna against
I. P.*

W. C.

*Prayer to a Bill filed by Persons entitled to have Trust
Stock divided among them, and Assets of the Settler
applied to make good the Sum which ought to have been
settled.*

And that all the Defendants may severally set forth what right and interest they respectively have or claim in and to the said capital sum of £ Reduced Bank Annuities, and said sum of £ in such Bank Stock as aforesaid, and the aforesaid sum of £ so due from Testator T. B. or his estates aforesaid, or any of them, or any part or parts thereof, or of any of them, or of the interest and dividends thereof respectively, or of any of them which have accrued due respectively since the death of said A. T. M. and how they severally and respectively derive and make out the same, and

Prayer.

That the rights and interests of Plaintiffs and Defendants to and in the said several capital and principal sums of £ and £ in such Bank Annuities and Bank Stock as aforesaid, and the interest and dividends of the same, accrued since the death of the said A. T. B. or which may accrue due thereon respectively, and to and in the said sum of £ so due from the estate of the said Testator T. B. the elder as aforesaid, and the interest due thereon since the death of the said A. T. B. and which shall become due thereon may be ascertained and declared by this Court; and that the aforesaid sum of £ may be decreed to be paid out of the personal estate and effects of the said Testator T. B. the elder, which were possessed or received by or by the order or for the use of the said A. T. B. deceased, his Executrix, and that the said Defendants R. N. the elder, T. N. and A. G. may admit assets of the said Testator T. B. the elder, which came to the hands or use of the said A. T. B. in their life time, sufficient to answer and satisfy the aforesaid demand thereon, or that an account may be taken of all the personal estate and effects of or belonging to the said Testator T. B. the elder at the time of his death, which were so possessed or received by or by the order or for the use of the said A. T. B. in her life time, and which was not administered and dis-
posed

posed of by her ; and also of his the said Testator T. B.'s debts and funeral expenses now remaining unpaid, and that the amount of such personal estate and effects may be answered and satisfied out of the personal estate and effects of the said A. T. B. come to the hands or use of said Defendants her Executors, and that the same or a competent part thereof may be applied in or towards payment of such debts and funeral expenses, particularly the aforesaid debt or sum of £ so due and owing from the said Testator T. B. the elder or his estate as aforesaid, in a due course of administration ; and that said Defendants R. N. the elder, T. N. and A. G. may admit assets of the said A. T. B. come to their or some or one of their hands or use, sufficient to answer the matters aforesaid, or that an account may be taken of all the personal estate and effects of said A. T. B. come to the hands or use of them the said last-named Defendants or any of them, and also of her debts and funeral expenses ; and that such last-mentioned personal estate and effects, or a competent part thereof, may be applied in or towards payment of said debts and funeral expenses of said A. T. B. particularly the aforesaid demand thereon, in a due course of administration ; and that such parts of said £ 3 per cent. Consolidated Bank Annuities, and £ Bank Stock, and also of said £ or the money which shall be received on account thereof, as are or may be also disposed of and appointed by the aforesaid will of the said Testator T. B. may be transferred and paid to such person or persons as may be entitled to have the transfer and payment thereof made to them ; and that the residue of said sum of £ in such Bank Stock as aforesaid, and of said £ may be also transferred and paid to the person or persons entitled thereto ; and that the residue of the aforesaid sum of £ 3 per cent. Reduced Bank Annuities may be laid out in the purchase of lands, hereditaments, and premises in fee-simple, upon the trusts and pursuant to the directions contained in the aforesaid Act of Parliament, and that the rents and profits of such real estates, and the interest and dividends of said sum of £ in such Bank Annuities as aforesaid, in the mean time and until such purchase may be decreed to be paid to such persons as may be entitled thereto, or that the said residue of the said last-mentioned Bank Annuities may be applied, distributed, and disposed of in such other manner as this honorable Court shall direct. And for further relief.

Conclusion of a Bill for a Commission, to examine Witnesses abroad.

And your Orators further shew unto your Lordship, that inasmuch as the witnesses to the several transactions aforesaid reside in the said city of H. your Orators are unable to proceed to trial of the said action against the said R. T. without a commission from this honorable Court, for the examination of such witnesses, &c.

And that your Orators may be at liberty to sue out one or more commission or commissions for the examination of their witnesses at A. B. or elsewhere

elsewhere in parts beyond the seas, touching the matters aforesaid; and that your Orators may have the benefit of the testimony of such witnesses respectively in the said action so commenced by them as aforesaid, or in any other action to be commenced by your Orators, on the said policy of assurance, may, &c.

J. L.

Another Prayer.

And that a commission may issue for the examination of witnesses residing in parts beyond the seas, as to the several matters aforesaid, with all proper and usual directions in that behalf; and that your Orators may be at liberty to read and make use of the depositions of such witnesses at law upon the trial of the said action so commenced as aforesaid, may, &c.

Concluding Part of a Bill for a Settlement, and to restrain Proceeding on a Bond which had been given as a Security by the Plaintiff's for the keeping certain Accounts.

But now so it is, &c. And the said pretend that your Orator T. H. is indebted to the said Company in a large sum of money as the balance of his accounts with the said Company as such Treasurer as aforesaid, but nevertheless they refuse to come to any account with your said Orators, and threaten and intend to proceed by action for the recovery of such pretended balance against your said Orator W. H. who, upon the appointment of your Orator T. H. to the office of Treasurer as aforesaid, entered into a bond to the said Company in the penal sum of £ conditioned for the due performance of the said office by the said T. H. and for his duly accounting in respect thereof; whereas your Orators charge that the apparent balance in favour of the said Company upon your Orator T. H.'s account as Treasurer is occasioned only by your said Orator's having debited himself with the amount of the balance made by the said Company on certain shares in the said Company, purchased by him, and which he was induced to purchase only by reason of the engagement of the said Company to leave in his hands as Treasurer from time to time, such stipulated sum as aforesaid: and that having suffered great loss as to the said shares by the breach of the said engagement as aforesaid, he ought to be indemnified therefrom by the said Company; and your Orators further charge, that even admitting the said apparent balance of your Orator T. H.'s account as Treasurer were really due from him, yet that a much larger sum is coming to your said Orator in respect of the several matters hereinbefore stated; and so it would appear upon a fair account between the said Company and your said Orator, but which account the said Company under various unjust pretences made and refuse. All which, &c. To the end, &c.

And that the said Defendants may answer the premises, and that an account may be taken of all matters, dealings, and transactions between your Orator T. H. and the said Defendants, and that the said Defendants may be decreed to pay to your said Orator what shall be found due to him upon such account, your said Orator being ready and willing
and

J. L.

Conclusion of a Bill against Trustees, for converting Monies which stood in their Names, to their own Use.

And your Orators further shew, that they have lately discovered, as the truth is, that neither the said sum of £ 3 per cent. Consolidated Bank Annuities, nor any part thereof, is now standing in the names of the said W. W. F. W. W. W. and W. C. or of any or either of them, and that in fact the said Bank Annuities or any part thereof, was not standing in the names of the said Trustees or of any or either of them, at the time of the date of your Orator's said marriage settlement, but that the whole of the monies arising from the sales of the said estates have been applied by the said Trustees to their own use; and that the said sum of £ Bank Annuities, which is stated to have been purchased with the said sum of £ , was very soon after, or about the time of passing the said Act of Parliament, transferred or sold out by the said Trustees, who have applied the produce thereof to their own use; and your Orators being the only persons interested in the said estates, funds, and premises, after the death of the said I. P. have caused application to be made to the said W. C. F. W. and W. W. and the Executors of the said W. W. for an account of the produce of the said estates and of the trust funds, in order that the same may be properly secured, and your Orators well hoped that such application would have been complied with, as in justice and equity it ought to have been; but now, &c. refuse to give your Orators any account of their transactions relating to the said trust, and they refuse to discover and set forth when and by whom the said sum of £ hereinbefore mentioned was first paid to the said Trustees or any or either of them, and when and by whom the same or any part thereof was laid out in the purchase of the said sum of £ Bank Annuities, and when and by what means and for what purpose the same was transferred into the names of the said Trustees, and what has since become of the said sum of £ Bank Annuities, and when and by whom and to whom, and for what sum of money or other consideration the same was transferred out of the names of the said Trustees; and the said Defendants also refuse to discover and set forth a full, true, and particular account of all the said estates and premises in the said Companies respectively, comprized in the said Act of Parliament, which have been sold since the passing of the said Act, and by whom and to whom and in what names the same have been sold, and for what prices and sums of money the same respectively have been sold, and to whom all such sums of money were paid, and what persons gave or joined in giving receipts for the same, and how and in what manner all such sums of money have been applied, and who are or is now accountable for the same; and whether the purchase monies or any part or parts thereof have or hath, and when, been laid out, on any and what Government Securities or other securities

securities, and by whom and in whose names or name, and what hath since become of such securities; and the said Defendants also refuse to state whether any and which of the said estates and premises still remain unsold; and the said Defendants sometimes pretend that the said Defendant W. C. alone hath acted in the said trust, and is accountable for the said trust monies, and that he hath received the said sum of £ , and also all the monies arising from the sales of the said estates and premises, and hath applied the same to his own use; and that the said W. W. F. W. and W. W. respectively, never received any of the monies or joined in giving any receipts or acknowledgments for the said monies, or any part thereof, whereas your Orators charge the contrary of such pretences to be the truth, and that the said W. C. hath been enabled or permitted by the said W. W. F. W. and W. W. to receive all the said monies, and to convert the same to his own use, and that he hath wasted the same, and that they all became responsible for the same; and particularly your Orators charge, that before or about the time of passing the said Act of Parliament the said sum of £ 3 per cent. Consolidated Bank Annuities stood in the joint names of all the said Trustees, and was afterwards transferred out of their names into some other name or names; and the said Defendants W. C. F. W. and W. W. and the Executors of the said W. W. ought to be compelled either to answer and pay all the said trust monies originally received by them or any of them as aforesaid, or to account for the produce of the trust funds in which the same were at any time invested, or to replace such trust monies as shall appear to be most for the advantage of the parties interested in such trust, and such parts of the said trust estates and premises comprised in the said Act of Parliament, as shall appear to remain unsold or ought to be sold under the directions of this Court, and new Trustees ought to be appointed under the aforesaid settlement and Act of Parliament, in the room of such of the said Trustees as shall appear to have committed breaches of their said trusts; but the said I. P. and R. C. respectively, refuse to concur with your Orators in this suit, all which, &c. To the end therefore, &c. And that the said Defendants W. C. F. W. and W. W. and the Executors of the said W. W. deceased respectively, or such of them as this Court shall think fit, may be declared to be responsible for all the said trust monies, or for the value or produce of such securities as the same have been invested in, or have been alledged to be invested in, as shall appear most for the benefit of the persons interested in the said trust funds; and that the said Defendants B. H. and I. L. as representatives of the said W. W. deceased, may be decreed to answer and pay such monies accordingly, and that the same, when paid in, may be laid out and secured in Government Funds or Securities, for the benefit of the persons interested therein, under the direction of this honorable Court; and that the said Defendants W. C. F. W. and W. W. respectively, may be discharged from the trusts of the said indenture and Act of Parliament, and that new Trustees, if necessary, may be appointed in their stead, under the direction of this Court; and that all such of the said trust estates as remain unsold, may be sold under the directions of this Court, and that the monies arising from such sales may be secured and applied according to the trusts of the said Act of Parliament; and in case the said B. H. and I. L. shall not admit assets of the said W. W.'s estate, to answer what the same shall be responsible for in this suit, then that all necessary accounts may be taken of the said W. W.'s personal estate, possessed by them respectively, and of the application thereof. And for further relief.

R. S.

CHAPTER III.

ORIGINAL BILLS.

A BILL in Equity is similar to a petition, wherein the Plaintiff sets forth the circumstances of his case, praying relief, or discovery, &c. with process of subpoena against the Defendant, to compel him to answer the charge of the bill.

But in the case of a peer or peeress, or lord of Parliament, the bill must pray the letter of the person holding the great seal, called a letter missive, requesting the Defendant to appear and answer the bill, and the writ of subpoena, only in default of compliance with that request. And if the Attorney-General is made a Defendant as an officer of the crown, the bill must pray, instead of the writ of subpoena, that he, being attended with a copy, may appear and put in his answer. *Mit.* 37 & 38.

It is usual to add to the prayer of the bill a general prayer of that relief which the circumstances of the case may require. Indeed, it has been said, that a prayer of general relief, without a special prayer of the particular relief to which the Plaintiff thinks himself entitled, is sufficient, 2 *Atk.* 3. and the particular relief which the case requires may at the hearing be prayed at the bar. But this relief must be agreeable to the case made by the bill, and not different from it. *Mit.* 39. As where a bill was brought for an annuity or rent-charge of £10 a year, left under a will, and the counsel for the Plaintiff prayed at the bar, that they may drop the demand of this annuity, and insisted

insisted upon the land itself out of which the annuity issues ; but the Lord Chancellor denied it, because it came within the above rule. *2 Atk.* 141.

A bill must be true in substance, and plainly, yet succinctly alledged, with all necessary circumstances, as time, place, manner, and other incidents. *Wy. Pract. Reg.* 57.

Whatever is essential to the rights of the Plaintiff, and is necessarily within his knowledge, ought to be alledged positively, and with precision ; but the claims of the Defendant may be stated in general terms : and if a matter essential to the determination of the Plaintiff's claims is charged to rest in the knowledge of the Defendant, or must of necessity be within his knowledge, and is consequently the subject of a part of the discovery sought by the bill, a precise allegation is not required. *Mit.* 41.

If a bill be exhibited where the Lord Chancellor is a Plaintiff to the suit, it must be directed to the King's most excellent Majesty, and the word " Majesty " must be used in the prayer and conclusion thereof, instead of " Lordship."

A counsel is not to put his hand to a bill, (or any other pleading,) unless it be drawn or perused by himself in the paper draft before it be engrossed, and counsel are to take care that the same be not stuffed with repetitions of deeds, &c. *in hæc verba*, but that the substance of so much of them only as is pertinent, &c. and that in brief terms, without long needless traverses, or points not traversable, &c. Much less may any counsel insert therein matter merely criminal or scandalous, under penalty of good costs to be laid on the counsel, to be paid to the parties grieved, to be heard in Court before such counsel. *Ord. Can.* 93.

A bill may pray relief against an injury suffered, or only seek the assistance of the Court to enable the Plaintiff to defend

defend himself against a possible future injury, or to support or defend a suit in a Court of ordinary jurisdiction. Original bills have, therefore, been again divided into bills praying relief and bills not praying relief.—An original bill praying relief may be, 1. A bill praying the decree or order of the Court, touching some right claimed by the person against whom the bill is exhibited.—2. A bill of interpleader, where the person exhibiting the bill claims no right in opposition to the rights claimed by the person against whom the bill is exhibited, but prays the decree of the Court touching the rights of those persons, for the safety of the person exhibiting the bill.—3. A bill praying the writ of *Certiorari*, to remove a cause from an inferior court of equity. An original bill not praying relief may be—1. A bill to perpetuate the testimony of witnesses.—2. A bill for discovery of facts resting within the knowledge of the person against whom the bill is exhibited, or of deeds, writings, or other things in his custody or power. *Mit.* p. 32, 33.

Pursuing the noble author's foregoing arrangement, this chapter will contain a selection—1st. of Original Bills praying relief, upon various and useful subjects; 2dly, Bills of interpleader; 3dly, *Certiorari* Bills. Original bills not praying relief will compose the next chapter.

We have in the first bill referred to our first chapter, where the frame and words of course necessary to a bill are discussed and exemplified. But it will not be necessary to pursue this plan farther, as an attentive, perusal of that chapter will fully inform the student where these words ought to be placed; and it is also presumed that no person will attempt the office of a draftsman before he has acquired a competent knowledge of his profession.

Bill for the specific Performance of an Agreement.

To the Right Honorable John Lord Eldon, Baron Eldon, of Eldon, in the county of Durham, Lord High Chancellor of Great Britain.

Humbly complaining, sheweth unto your Lordship, your Orator, R. O. of in the county of , Esq. that your Orator now is, and for some time before the year , was seised or entitled in fee-simple of or to the freehold messuages or tenements, with the lands and other appurtenances thereto belonging, situate in in the county of , and your Orator being so seised or entitled, and being desirous to make sale thereof, did, some time before the of , in the year , employ and empower J. K. of in the said county of , gentleman, to agree on behalf of your Orator with any person or persons, at and for such price or prices as he should think fit; and accordingly the said J. K. treated with J. M.^e of S. in the said county of S. gentleman, for sale of such messuages, tenements, and hereditaments, unto him the said J. M.; and at length they came to an agreement for such purchase, and thereupon articles of agreement in writing, bearing date the day of , and made between the said J. K. on behalf of your Orator of the one part, and the said J. M. of the other part, were duly executed by the said J. K. and J. M. whereby the said J. K. in consideration of the sum of £ , to be paid as therein and hereinafter mentioned, agreed that your Orator or his heirs should or would, on or before the day of then next, to the satisfaction of the said J. M. or of his heirs, and of his or their counsel, make out a good title to the premises hereinafter mentioned, and by good and sufficient conveyances, surrenders, and assurances in the law, with reasonable covenants, such as the counsel of the said J. M. should advise, convey and assure, or cause to be conveyed and assured, unto the said J. M. and his heirs, as he or they should appoint, free from all incumbrances, (except a perpetual drainage-tax charged upon the premises, or some part thereof,) and particularly a good estate of inheritance of, in, and to all that messuage or tenement, (*here recite the agreement*) and in consideration thereof, the said J. M. did thereby covenant and agree with the said J. K. that he the said J. M. would pay, or cause to be paid, to your Orator, his heirs, executors, or administrators, the said sum of £ , immediately upon the executing of such conveyance as aforesaid; and it was thereby mutually agreed that your Orator, or his heirs, should be at the expense of making a good title to the said premises, and that the said J. M. should be at the expense of the conveyances and assurances to be made thereof to him as aforesaid, and that the said J. M. should have the rents and profits of the said premises from the said of provided the purchase of the said premises should be completed on or before that day, but not otherwise, as in and by one part of the said articles of agreement, now in the custody of your Orator, and ready to be produced, (reference being thereto had) will more fully appear. And your Orator further sheweth unto your Lordship, that in consequence of the said articles of agreement, and in order to the performance thereof on the part of your Orator, who hath been ever since he heard thereof, which was shortly after the date thereof, willing to perform the same,

an abstract of the title to the said estate was on your Orator's behalf, shortly after the date of the said articles of agreement, sent unto the attorney concerned for the said J. M. for his perusal, together with all and most of the deeds mentioned in such abstract, for the inspection of such attorney, or of the counsel of the said J. M. and several objections having been from time to time made to your Orator's title to the said estate, by the counsel or conveyancer before whom such abstract was laid, by or on behalf of the said J. M. all such objections were long since answered or cleared up to the satisfaction of such counsel or conveyancer, who long since, by writing under his hand, or otherwise, approved of your Orator's title to the said messuages and premises, wherefore the said J. M. ought long since to have paid to your Orator the sum of £ , on having a proper conveyance of the said messuages and premises according to the said articles of agreement executed by your Orator, and upon having possession of the said messuages and premises delivered unto him. And your Orator hath at several times since your Orator's title to the said message and premises was so approved, in and by letters, and by your Orator's agent, in a friendly manner applied unto the said J. M. and informed him of your Orator's readiness to make and execute a proper conveyance of the said messuages and premises, on payment of the said sum of £ , and therefore requested the said J. M. to pay unto your Orator the said sum of £ , and your Orator well hoped that such his requests would have been complied with. But now so it is, may it please your Lordship, that the said J. M. combining (*vide page 4. § 5.*) how to injure and defraud your Orator in the premises, and how to defeat your Orator of the benefit of the said articles of agreement, he the said J. M. sometimes pretends that he did not execute any such or the like articles of agreement as aforesaid, or that your Orator cannot make out a good title to the messuages or tenements, lands and hereditaments, or not to all the parts thereof, or that your Orator hath not made out such title to the satisfaction of him, or his counsel, or conveyancer; whereas your Orator charges the contrary of all such pretences to be true, but nevertheless under such and the like pretences as aforesaid, or some other equally unjust, the said J. M. refuses to perform the said articles of agreement on his part. All which (*vide p. 5. § 6. and § 7. p. 7.*) whether, &c. (*here you must make such interrogatories as appear most essential to your client's case, proceeding in the same progression as you stated his case in the stating part of the Bill.*) And that the said articles of agreement, dated the day of , may be specifically performed and carried into execution by the said J. M. your Orator hereby offering to perform the same on his part, and that the said J. M. may pay unto your Orator the said sum of £ , your Orator offering thereon to convey the said messuages, tenements, lands and hereditaments, unto the said J. M. and that your Orator may have such further other relief in the premises as to your Lordship shall seem just and proper, &c. (*here will follow the common prayer for a subpoena.*)

Bill for a specific Performance of a Sale by public Auction.

Humbly complaining, shew unto your Lordship, your Orators, &c. That previous to, and in the year , your Orators were seised of, or
well

well entitled to a considerable estate of inheritance, consisting of various particulars, situate, lying, and being in and near, &c. and being so seised or entitled, they did, on cause the said estate to be put up to sale by public auction, by Messrs. S. and D. in eighteen lots, and at the said sale R. P. of became a bidder for, and was declared the purchaser of the first of the said lots, for £ , and B. N. became a bidder for, and was declared, &c. (*stating each purchaser as the first is stated*) and each of them paid to Messrs. S. and D. a deposit of £ per cent. upon their said respective purchase monies, pursuant to one of the printed conditions of the said sale, and did also by themselves and their respective agents, duly authorized, sign a written agreement on one of the said printed particulars of sale, to complete their said respective purchases, and pay the remainder of their purchase money on or before . That Defendants were severally let into possession as receiver of the rents and profits of said several hereditaments and premises, so as aforesaid respectively purchased by him, some time in or about, and they have ever since been, and are now in the possession or receipt of the rents and profits thereof, and an abstract of complainant's title to same was sent to Defendants or their respective attornies, and complainant's title to said hereditaments and premises hath been approved by them or on their behalf. That ever since making said contracts or agreements, complainants have been ready and willing to perform the same on their part, and to make and execute to said Defendants all necessary conveyances, surrenders, and assurances, of the said hereditaments and premises, so as aforesaid purchased by them, upon being paid the arrear of such purchase money for the same, together with lawful interest, from the time which Defendants agreed to pay. And complainants have frequently, by themselves and their agents, applied to and requested them to perform said condition and agreement on their part, and to pay to complainants the remainder of their said respective purchase monies, and interest thereon, after deducting what they paid by way of deposit, as aforesaid. To the end, &c. that they may be decreed specifically to perform said contracts or agreements, made and entered into by them respectively, as therein before stated; and may be decreed to pay complainants the remainder of aforesaid purchase monies, or sums of money, for which they were declared purchasers of said hereditaments and premises, together with lawful interest for the same, after deducting the several sums paid by them respectively, by way of deposit, as aforesaid, complainant hereby offering, upon such payment being made, to make, execute, and deliver to them respectively, or as they shall respectively appoint, all necessary conveyances, surrenders, and assurances thereof, according to said conditions of sale. And general relief, &c.

I. C. C.

Bill for a specific Performance, Vendee against Vendor.

Humbly complaining, sheweth unto your Lordship, your Orator, J. D. of , that J. D. of , one of the Defendants hereinafter named, was, in and before the month of seized to him and his heirs, according to the custom of the manor of E. in the county of , of and in a messuage, &c. And your Orator sheweth, that the said J. D. being desirous to dispose of the said premises, entered into an agreement with your Orator for the sale thereof thereof

thereof to him, and which agreement was reduced into writing, and signed by the said Defendant, J. D. and your Orator, and is in the words and figures, or to the purport and effect following; (that is to say) (*state agreement verbatim*). As by the said memorandum of agreement, when produced, will appear. And your Orator further sheweth unto your Lordship, that the said J. D. referred your Orator to one V. a labourer, who had long lived near the spot as a person who well knew the boundaries of the freehold and copyhold part of the field, out of which the said house and premises had been taken. And the said J. D. expressed himself to be ready to abide by the opinion of the said V. in that respect. And your Orator sheweth, that he accordingly applied to the said V. for his opinion in that behalf; and the said V. thereupon informed your Orator that the said house and premises agreed to be purchased by your Orator, and which were in the north-east part of the field, were wholly copyhold, and that the freehold lay on the south side of the field. And your Orator further sheweth unto your Lordship, that in the said month of _____, and before the day fixed for completing the said agreement, your Orator called upon the said J. D. and offered to pay to him the said purchase-money for the said house and premises, and then requested the said J. D. to accompany your Orator to the steward of the said manor, in order to make the surrender of the said premises. But the said Defendant then pretended that he must make further inquiry with respect to the said premises, before he completed the said agreement. And the said J. D. frequently afterwards desired your Orator not to be in a hurry about the business, and that if your Orator waited till the lease was out, the said J. D. would let your Orator have the field adjoining to the house. And your Orator sheweth, that he hath repeatedly applied to the said J. D. and hath requested him specifically to perform his aforesaid contract. And your Orator well hoped that the said Defendant, J. D. would have complied with such your Orator's reasonable requests, as in justice and equity he ought to have done. But now so it is, &c. the said J. D. combining and confederating to and with T. R. C. of _____, absolutely refuses so to do; and the said J. D. hath actually sold the said messuage and premises to the said Defendant, T. R. C. at an advanced price, and hath surrendered the same to the use of the said T. R. C. his heirs and assigns, and the said T. R. C. hath been admitted upon such surrender. And the said Defendant, J. D. at some times, pretends that the said messuage and premises were part freehold, and that therefore the said Defendant was discharged from his said agreement with your Orator; whereas your Orator expressly charges the contrary thereof to be the truth. And as further evidence thereof, your Orator charges that the surrender made by the said J. D. to the said T. R. C. comprises, by description, and according to the dimensions therein expressed, the whole of the said messuage and premises so agreed to be sold to your Orator, and that the same were sold by the said J. D. to the said T. R. C. as wholly copyhold, and were no otherwise conveyed or assigned to him than by the said surrender. And your Orator further charges, that before the said surrender was made by the said J. D. to the use of the said T. R. C. as aforesaid, and before the said T. R. C. paid his purchase money for the same, if he has in fact paid such purchase money, the said T. R. C. had some notice or intimation, or some reason to suspect or believe that he the said J. D. had entered into an agreement with your Orator for the sale of the said pre-

mises to your Orator; and in particular your Orator charges that the said T. R. C. carries on the business of a brewer, in copartnership with W. and H. And that the said W. and H. were both informed by your Orator of his said agreement; and your Orator actually delivered the said agreement to the said H. previous to the said surrender to the said T. R. C. or to the payment of his purchase money; and the said W. and H. or one of them, acted as the agent or agents of the said T. R. C. in the treaty with the said J. D. or were in some manner employed or took some part therein, on the behalf of the said T. R. C. And the said W. and H. or one of them, gave some information or intimation to the said T. R. C. respecting the agreement made by your Orator with the said J. D. And the said W. and H. as the partners of the said T. R. C. have some right or interest in the said premises, although the surrender thereof was made as aforesaid to the said T. R. C. alone. And your Orator further charges, that the said J. D. hath, in some manner, indemnified, or undertaken to indemnify the said T. R. C. against the claims of your Orator, in respect of his said agreement, as there is some undertaking between the said J. D. and the said T. R. C. that the said T. R. C. is to be indemnified against such claim. All which, &c. To the end therefore, &c. And that the said Defendants may answer the premises; and that the said agreement so made between your Orator and the said J. D. as aforesaid, may be specifically performed; and that the said T. R. C. may be decreed to surrender the said messuage and premises to your Orator, and his heirs, your Orator being ready and willing, and hereby offering specifically to perform the said agreement, in all things, on his part and behalf. [Or if it should appear that the said T. R. C. is a purchaser, without notice of the said agreement between your Orator and the said J. D. then that the said J. D. may account for and pay to your Orator the difference between the price stipulated in the said agreement, and the sum at which he sold the same to the said T. R. C.] And that the said Defendants may, in the mean time, be restrained from bringing any action of ejectment against your Orator, in order to turn him out of possession of the said premises. And for further relief.

J. L.

N. B. That part between crochets is an amendment upon the coming in of the answer, in case it should not be made out that C. by himself or his agents, had notice.

*Pray Subpena against J. D.
and T. R. C.*

Bill by Lessee against Lessor, for a specific Performance.

Humbly complaining unto, &c. That Defendant, of _____, in the month of _____, being, or pretending to be seized or possessed of a messuage or tenement, situate, &c. and being willing and desirous to let the same, he, in the month of _____, proposed or agreed to grant unto your Orator a lease of the aforesaid premises, with the appurtenances, and thereupon your Orator and Defendant duly executed or subscribed a certain memorandum or agreement, bearing date, &c. and made

made between your Orator of the one part, and Defendant of the other part, whereby Defendant agreed to let, &c. (*state the agreement*). As in and by, &c. And your Orator further, &c. That in expectation and full confidence that a lease would have been made and executed to him of the said messuage, or tenement and premises, pursuant to the term of the said agreement, he hath laid out sundry sums in repair of the said premises, to a considerable amount. And your, &c. That Plaintiff hath been always ready to perform his part of the said agreement, and to accept a lease of the said premises, pursuant to the terms thereof. And your Orator, for that purpose, caused a draft of a lease to be drawn, pursuant to the terms of the aforesaid agreement, and tendered the same to Defendant, for her perusal and approbation; but Defendant refused to accept or peruse the same. And your Orator, &c. That he hath frequently applied, by himself and his agents, in a friendly manner, to Defendant, and requested her to make and execute unto your Orator a lease of the said messuage or tenements, and premises, conformable to the said agreement. And your Orator well hoped, &c. But now so it is, &c. Defendant pretends, that no such agreement, as aforesaid, was ever made or entered into by or between the said Defendant and your Orator, or any agreement, or that she consented to grant a lease to your Orator of the aforesaid messuage, or tenement and premises. Whereas, &c. of such pretences to be the truth. And so the said confederate will at other times admit; but then she pretends that she hath been always ready and willing to make and execute a lease of the said messuage, or tenement and premises, pursuant to the terms of the said agreement, and in all respects to perform the same on her part. *Charge, &c.* But, nevertheless, Defendant refuses to comply with your Orator's aforesaid requests, or to perform or fulfil the aforesaid agreement. All which, &c. And that the said agreement may be specifically performed and carried into execution; and that Defendant may be decreed to execute a lease of the aforesaid messuage, or tenement and premises, to your Orator, according to the terms of the aforesaid agreement. Your Orator hereby offering to execute a counter-part thereof, and in all other respects to perform his part of the said agreement. And for further relief.

J. L.

Bill by Lessee against Lessor, for specific Performance, and Injunction to restrain him in Action of Ejectment.

Humbly complaining, sheweth unto your Lordship, your Orator, J. M. of, &c. That J. C. of, &c. the Defendant hereinafter named, was, in and before the month of _____, seized of, or otherwise well entitled to the reversion of a farm and lands, called or known by the name of, &c. situate, &c. which your Orator had occupied from the year _____, at the annual rent of £ _____, under and by virtue of a lease thereof, from the Rev. E. S. which would expire at _____ And your, &c. that being desirous to obtain a new lease of his said farm and lands, your Orator, on or about, &c. entered into a treaty for such new lease with a Mr. D. the agent, steward of the said Defendant, J. C. and who was duly authorised by the said Defendants for that purpose. And your Orator sheweth, that the said Mr. D. asked an increased rent of £ _____, for the said farm and lands, from the expiration of the subsisting lease, which your Orator expressed himself to be willing to give upon a lease

for fourteen years ; and the said Mr. D. then told your Orator that the said Defendant would object to granting leases, but that he the said Mr. D. should see the said Defendant in the course of that day, and would let your Orator know ; and the said Mr. D. accordingly, in the evening of that day, informed your Orator that he had seen the said Defendant, and that the said Defendant was willing to grant to your Orator a new lease for seven years, at the said proposed advance of £ a year ; and your Orator then agreed with the said Mr. D. to accept the said new lease upon such terms. And your, &c. that on or about, &c. your Orator was at the office of the said Mr. D. upon other business ; and the said Mr. D. then informed your Orator that the said Defendant, &c. found fault with the bad state of husbandry of a part of the said lands called, &c. and that he thought your Orator had better have his lease executed, as Mr. C. who had agreed for a lease at the same time with your Orator, was going to have his ; and the said Mr. D. then asked your Orator if he would have the lease made in his own name, or in the name of himself and his brother, to which your Orator answered, that he would have it in his own name. And your, &c. that the said Mr. D. then gave directions to his clerk to prepare two double leases, one for your Orator, and the other for the said Mr. C. but no such lease has in fact ever been delivered to your Orator. And your, &c. that on, &c. your Orator paid to the said Mr. D., on account of the Defendant, the sum of £ , for the half year's advanced rent, which became due under the aforesaid agreement, at , and your Orator hath ever since paid the said increased rent in performance of the said agreement. And your Orator, in the confidence that the said Defendant would duly grant to him a lease of the said farm and lands for the said term of seven years, pursuant to the terms of the said agreement, hath laid out a considerable sum of money in completing an inclosure, and in quickening about thirty-five acres of land, part of the said farm, in, &c. parish, and in new fencing and quickening other parts of the said farm, and in stone-draining other parts thereof, and in building a wain-house thereto. And your Orator sheweth, that he was proceeding to make other improvements upon the said farm and lands, but that, at or about ast, your Orator was served with a notice from the said Defendant, to quit the said farm and lands at the following. And your, &c. that he hath, by himself and his agents, repeatedly applied to the said Defendant to grant to him a lease of the said farm and lands, pursuant to the agreement aforesaid. And your Orator well hoped, &c. And the said Defendant, in or as of Easter term, served your Orator with a declaration in ejectment, and the said Defendant threatens and intends to proceed in the said action of ejectment, in order to turn your Orator out of the possession of the said premises, unless he be restrained therefrom by the order and injunction of this honorable Court. All which, &c. (The usual prayer for a specific performance, and the injunction.)

J. L.

Bill for a specific Performance, Pretence, that by reason of the original Lease being lost, a good Title cannot be made Defendant in Possession, and ought to be charged with the Rent, &c.

Humbly complaining, sheweth unto your Lordship, your Orator, E. T. of, &c. that by indenture, bearing date, &c. and made between E. H. of, &c.

&c. of the one part, and the Defendant of the other part. The said E. H. for and in consideration, &c. And your, &c. That on or about the, &c. your Orator entered into an agreement with I. C. of, &c. the Defendant hereinafter named, which was reduced into writing, and signed by the said I. C. and by one H. D. for and on the behalf of your Orator, and who was duly authorised by your Orator for that purpose, and is in the words and figures, or to the purport and effect following (that is to say), Mr. T. proposes to sell Mr. C. the remaining term of his lease of the , with all lands and premises thereto annexed, &c. with an exception of part of the premises, which had before been let to another person, as in and by, &c. And your, &c. That it being understood and agreed between the said H. D. on the part of your Orator and the said I. C. that he the said I. C. should have immediate possession of the said messuage, lands, and premises, the said H. D. did accordingly, upon the signing of the said agreement, deliver unto the said I. C. the keys belonging to the said premises, and the said I. C. or some person on his part and behalf, hath ever since been in possession of the said premises. And your, &c. That your Orator hath repeatedly applied to the said I. C. and hath requested him specifically to perform the said agreement on his part and behalf. And your Orators well hoped, &c. And to colour such his refusal, the said I. C. pretends, that by reason that the original lease has been lost or mislaid, that therefore your Orator cannot make a good title to the said messuage, lands, and premises, for the residue of the said term; whereas your Orator charges, that the said E. H. upon being informed thereof, executed the counterpart of the same lease, and delivered the same to your Orator, and is ready to confirm the said lease in any other manner that can reasonably be required. And your Orator further charges, that your Orator hath caused an under lease of the said premises to be prepared according to the agreement so made and signed as aforesaid, by the said Defendant, and hath caused the same to be tendered to the said Defendant; and the said Defendant hath been requested, by or on the part of your Orator, to accept the said under lease, and to execute a counterpart thereof; but the said Defendant refuses so to do, and insists that he is entitled to an assignment of the original lease. And your Orator further charges, that the said Defendant is to be considered as in possession of the said premises, from the date of the said agreement, and ought, from thence, to pay all rent and charges in respect of the said premises, and ought also to pay to your Orator interest on the said premium of £ . All which, &c. To the end, &c. And that the said Defendant may answer the premises, (*usual prayer for specific performance*), praying that the said Defendant is chargeable with all rents and charges affecting the said premises, since the date of the said agreement. And that the said Defendant may pay to your Orator interest on the said sum of £ , from the date thereof. And for further relief, &c. J. L.

Conclusion to a Bill for a specific Performance. Vendee objects to Title, Charge that he makes Difficulties to delay Completion, by reason of the Fall of Stocks.

And your Orator sheweth, that, in the course of a fortnight, the said abstract was returned, with a request that further explanation might be given

given to your Orator's title to some parts of the said premises, and that such explanation was soon afterwards given. And your Orator sheweth, that he hath since repeatedly applied to the said Defendant to complete his said purchase, according to the said articles of agreement : and your Orator well hoped, &c. But now, &c. absolutely refuses so to do. And to colour such his refusal, the said Defendant hath made various objections to the title of your Orator to the said premises. Whereas your Orator charges, that such objections are frivolous and unfounded, and are made by the said Defendant only for the purpose of evading the performance of the said agreement, which, by reason of the fall of the price of stocks, occasioned by war, has become less advantageous to the said Defendant ; and the said Defendant hath lately commenced an action at law against your Orator, in his Majesty's Court of King's Bench, for the recovery of the said sum of £ , which was paid by him to your Orator, as a deposit on the execution of the said agreement ; and the said Defendant threatens and intends to proceed to execution, unless he be restrained by the injunction of this honorable Court. To the end, &c.

Prayer to a Bill for the specific Performance of an Agreement, on the Faith of which Plaintiff had paid a large Sum of Money, and had also expended considerable Sums in Repairs and Alterations of the Premises, that if good Title could not be made, Plaintiff might be taken to be Mortgagee.

CASE.

"T. H. by articles, agreed to convey a messuage or tenement to Plaintiff, for £ in fee, which messuage or tenement had, together with other lands, been conveyed to J. A. and his heirs for £ , to the use of the said J. A. his executors, &c. for years, and subject thereto to the appointment of said J. H. and in default of appointment to the use of J. H. in fee ; and there was a covenant by said J. H. and wife in the mortgage deed, to levy a fine to the use thereof, which was levied accordingly. Plaintiff was let into possession of premises in pursuance of the agreement, and laid out £ therein in repairs ; he paid the £ to J. A. part of said £ , and J. H. paid the remainder and interest previous to the said mortgage to J. A. said messuage or tenement had been conveyed to E. H. and J. H. in trust for J. H. and M. his wife for their lives, remainder to their children as tenants in common ; of this settlement Plaintiff had no notice. The Bill was brought by Plaintiff for performance of the agreement."

Prayer.

That the said agreement, bearing date, &c. entered into by the said T. H. with the Plaintiff as aforesaid, may be performed, if the said T. H. can make a good title to the said messuage and premises ; Plaintiff being willing to perform the same on his part, and that in such case the said T. H. may be decreed to make and execute, and procure to be made and executed, proper conveyances of the said messuage and premises to Plaintiff, free from incumbrances, pursuant to his said agreement. And in case the said T. H. shall not

be

be able to make a good title to the said messuage and premises, then that an account may be taken of what is due to Plaintiff for the aforesaid sum of £ so paid by Plaintiff to the said J. A. as aforesaid, and interest for the same, and of all sums of money paid, laid out, and expended by Plaintiff, in repairing and altering the said messuage and premises, and making the same suitable and convenient for Plaintiff's business as aforesaid, and that the said T. H. may be decreed to pay to Plaintiff, what shall appear to be due to him on the taking of the said accounts. And in case it shall appear that the said T. H. is unable to pay the said sum of £ and interest, so paid by Plaintiff to the said J. A. as aforesaid, then that the said T. H. may be decreed to pay Plaintiff what shall appear to be due to Plaintiff for the money expended by Plaintiff on the said messuage and premises, and that the said J. A. and all proper parties may be decreed to assign to Plaintiff the said mortgage, bearing date, &c. so made by the said T. H. to the said J. A. as aforesaid, as of the rest of the estates comprized in the said mortgage. And then that the said T. H. and M. his wife, said G. H. and J. H. may be decreed to pay to Plaintiff what shall appear to be due for principal and interest, together with Plaintiff's costs of this suit, by a time to be appointed by this honorable Court for that purpose, and in default of, &c. that the said T. H. and M. his wife may be barred from all equity of redemption in the premises comprized in said mortgage or any part thereof, and for further relief.

J. M.

Bill by first Vendee against Vendor, and an after Purchaser with Notice, charging him with Notice, also an Injunction from cutting Wood.

Humbly complaining, sheweth unto your Lordship, your Orator, B. R. of, &c. that G. K. of, &c. farmer, the Defendant hereinafter named, was, or pretended to be, in and before the month of seized of or well entitled to a freehold estate of inheritance, consisting of, &c. in the and then in the occupation of the said G. K. and that the said G. K. on or about the day of caused the said estate and premises to be put up to sale by public auction, by a Mr. S. an auctioneer, in one lot; and your Orator sheweth, that your Orator employed one A. B. to attend at the said sale as a bidder on behalf of your Orator, and that the said A. B. became, and was declared to be the best bidder and purchaser of the said estate, at or for the price or sum of £ and, &c. that by the 4th article of the printed conditions of the said sale, it was expressed, that the purchaser should immediately after the sale, pay into the hands of the proprietor's attorney, a deposit of £ per cent. in part of the purchase-money, and sign an agreement for payment of the remainder on or before the of next, and now past. And that by the 5th of the said conditions of sale it was expressed, that a good title should be made to the said premises at the vendor's expense, whose attorney would make out the necessary conveyances which were to be approved of by the purchaser's attorney on or before the day of last; such purchaser paying towards such conveyances, the sum of of

of £ . And your Orator sheweth, that the said A. B. not being prepared to pay the whole of the deposit, according to the said conditions of sale, the said G. K. consented to accept the sum of £ in part thereof and to wait for the remainder, and thereupon an agreement was written at the foot of one of the printed particulars, and signed by the said Defendant G. K. and the said A. B. in the words and figures, or to the purport and effect following, (that is to say, which agreement ratified the purchase by both parties, and stated the payment of the £ and a condition to pay the remainder.) And your Orator sheweth that the said A. B. afterwards, on the day of , signed a memorandum at the foot of the said agreement, to the purport or effect following, that is to say: "I, the before-mentioned A. B. do hereby acknowledge that I have purchased the before-mentioned estate, by the order and for the use of B. R. of , as in and, &c." And your Orator, &c. that shortly afterwards the said A. B. by the direction of your Orator, tendered or offered to pay to J. F. of who acted as the attorney of the said G. K. in the said sale, the sum of £ in full for the deposit-money in the said purchase, and the said J. F. thereupon desired the said A. B. to pay the same into Mr. L.'s bank, until he procured a proper receipt for it, and the said A. B. accordingly paid the said sum of £ into Mr. L.'s bank on the day of the said month of , where it has ever since remained. And your, &c. that the abstract of the title to the said premises not having been delivered to your Orator, or to any person on his part, your Orator, on the day of , caused a tender to be made of the said sum of £ to the said Defendant G. K. and also to the said I. P. by a Mr. G. who at the same time served each of them with a notice in writing in the words and figures, or to the effect following, that is to say, "Sir, I do, &c. (tendering the remainder of the deposit-money, and desiring to fulfil the contract, and a caution not to cut timber, or commit waste,) as in and by, &c." And your Orator sheweth, that the said Mr. F. the attorney of the said Defendant, upon being served with the said notice, signed an acknowledgement in the words and figures, or to the effect following, that is to say, (acknowledging the receipt of the deposit-money) as in and by the said notice and acknowledgement, which, or one of which is now in the custody or power of the said Defendant, when produced, will appear. And your, &c. that the said J. F. sent an abstract of the title of the said Defendant to the said premises to Mr. E. the solicitor of your Orator, accompanied with a letter, written by Mr. B. the clerk of the said I. P. and bearing date the day of , which was in the words, or to the effect following, that is to say, (requesting the abstract and draft conveyance to be returned as soon as possible, to complete the business). And your Orator sheweth, that on the day of the said month of , the said Mr. E. sent an answer to the said I. F. in the words or to the effect following, (that is to say) acknowledging the receipt of last letter, and stating it should be effected as quick as possible, and warning Defendant from committing waste. [And your, &c. that many queries were made upon the abstract by the counsel before whom the same was laid, occasioned by former inaccuracies and misconceptions relative to the assignments of various outstanding terms affecting the said premises; and it also appeared by the said abstract that many of the title deeds of the said premises had not been entered with the register of the Bedford level, as by law they were required to be; said premises being

being adventure land, and part of the said level. And your Orator sheweth, that some time was therefore necessarily consumed in correspondence, between the solicitors of your Orator and the said G. K. as to these points, and on the day of , a meeting was had between the said G. K. and your Orator, and their respective solicitors, when it was verbally agreed between your Orator and the said G. K. that as there was no hope that the corporation of the Bedford level would obtain an act of Parliament to supply the defect of registration, which was supposed to exist to a great extent, the time for completing your Orator's purchase should be enlarged until the day of , but if the difficulties in the title of the said G. K. should be removed before that time, then your Orator should sooner complete his purchase, and the said G. K. should in the mean time manage the farm according to an agreement to be entered into for that purpose. And your, &c. that in the course of conversation at the said meeting, your Orator learnt, that the aforesaid abstract which had been delivered to your Orator's solicitor had not been made out and examined by the said Mr. F. but had been received by him from Messrs. M. and S. who were solicitors to a Mr. R. to whom the said premises were in mortgage. And your Orator sheweth, that after Mr. E. on the part of your Orator, had prepared the draft of an instrument in writing, for carrying into effect the verbal agreement made at the aforesaid meeting, the said Mr. E. received a letter written by A. B. the clerk of the said Mr. F. and bearing date the day of , in the words, or to the effect following, that is to say, I saw Mr. S. &c. (stating the defect of the title, and writing for a copy of case and opinion to send Mr. S.) And your Orator sheweth, that the said Mr. E. accordingly sent, by the return of post, a copy of the case and opinion required, and on the day of , the said Mr. E. received another letter from the said A. B. in the words, or to the effect following, (that is to say,) "K. and R. on the other side, &c." (to know if plaintiff would accept upon title offered, if not they had another purchaser); and your Orator sheweth that the copy of Mr. M.'s letter contained in the said last mentioned letter from the said A. B. was in the words, or to the effect following, (that is to say,) "I am, &c." (knowing when the money would be paid, and determination to proceed in equity and ejectment if not paid). And your, &c. that upon the receipt of the said last-mentioned letter, the said Mr. E. applied to the said Messrs. M. and S. for permission to compare the abstract of the title with the title deeds, and upon such comparison it appeared that the person who had prepared the abstract had omitted the note of registry to many of the deeds, and that there were also several other omissions and misrecitals in the abstract, the correction of which removed some of the other doubts that had arisen; and your Orator sheweth that the said Mr. E. caused the said amended abstract to be laid immediately before counsel, and although it still appeared that two or three deeds were unregistered, and that some difficulty and expence would be occasioned in getting in the outstanding terms, and in rectifying the errors that had been made in former assignments of them, yet, in order to end the business your Orator determined to accept the title as it stood, and to take upon himself the expence of getting in the outstanding terms; and thereupon on the day of the said Mr. E. by the instruction of your Orator, wrote a letter to the said Mr. F. in the words and figures, or to the purport and effect following, that

that is to say, "I am happy," &c. (stating he was ready to complete the purchase as the title stood.) And your, &c. that on the day of the same month of , the said Mr. E. sent the draft of the proposed conveyance to the said Mr. F. accompanied with a letter in the words and figures, or to the purport and effect following, that is to say, (stating that he sent the draft of conveyance, advised upon by counsel, instead of the one drawn by Defendant's attorney, requesting it to be engrossed immediately, and stating that no delay is attributable to Plaintiff in the completion of the business.) And your, &c. that the said Mr. E. not having received any answer to the said last mentioned letter, again wrote to the said Mr. F. in the words, or to the effect following, that is to say, (K.'s title, &c.) expressing Plaintiff's anxiety to complete the business.] And your, &c. that on the day of the said Mr. E. received a letter from the said A. B. the clerk of the said I. F. in the words or to the effect following, that is to say, K. and B. &c. (stating that Defendant would not complete the contract, on the ground that the deposit was not paid at the time mentioned in the particulars of sale.) And your, &c. that he hath since, by himself and his agents, repeatedly applied to the said G. K. and hath requested him specifically to perform the agreement so made and entered into by him as aforesaid, with the said A. B. the agent of your Orator. And your Orator well hoped the said G. K. would have complied with such your Orator's reasonable requests as in justice and equity he ought to have done. But now so it is, &c. And your Orator charges, that the said G. K. hath since contracted for the sale of the said premises to the said T. P. at an advanced price, and hath actually conveyed the said premises, or entered into an agreement to convey the same to the said T. P. or to some other person or persons, by his order, or to his use, or in trust for him. And your Orator charges, that the said T. P. at the time he entered into the said contract for the purchase of the said premises, or at the time of the conveyance thereof to him, if the same have been conveyed to him, or at the time of the payment of the purchase-money for the same, if he hath actually paid such purchase-money, well knew, or had been informed, or had received some intimation, or had some reason to believe or suspect, that the said G. K. had entered into such agreement as aforesaid with the said A. B. or into some agreement with your Orator, or with some person on his behalf, for the sale of the said premises to your Orator. And the said T. P. or the agent employed by him in the said purchase or contract, had at some or one of the times aforesaid, some knowledge or intimation of the several circumstances aforesaid, respecting the said premises, which had passed between your Orator and the said G. K. or their solicitors. And your Orator charges that the said I. F. was in fact the agent employed in the contract or sale by the said G. K. to the said T. P. as well on the part of the said G. K. as of the said T. P. And your Orator further charges, that if in fact the said T. P. has paid the purchase-money for the said premises, or any part thereof, to the said G. K. the said T. P. has had or taken some indemnity from the said G. K. or some other person, in respect of such payment, or of such purchase. And your Orator further charges, that after your Orator, by the said A. B. had entered into such agreement with the said G. K. as aforesaid, and after the hay season in this year, your Orator verbally agreed with the said G. K. that the hay on the farm should be left by the said G. K. and taken by your Orator at an appraisement,

praisement, but the said G. K. hath, nevertheless, sold and removed the said hay from the farm, to the great injury thereof; and the said G. K. hath, since his said agreement with the said A. B. ploughed up more than sixty acres of land, which, according to the usual course of husbandry, ought to have been laid down with grass. And the said G. K. hath also since cut down many timber and other trees upon the said premises, and hath committed and done other waste and injury thereto. And the said G. K. and also the said T. P. threaten and intend to cut down other trees on and from the said premises, and to commit other waste and injury thereto. All which actings, &c. To the end, &c.

Prayer.

And that the said Defendants may answer the premises. And that the said Defendant G. K. may specifically perform the said agreement so made and entered into by him as aforesaid, with the said A. B. as the agent of your Orator, your Orator being ready and willing, and hereby offering specifically to perform the said agreement in all things on his part and behalf. And that the said G. K. may be decreed to make compensation to your Orator for the waste and other damage done by him to the said premises since the making of the said agreement. And that in the mean time the said Defendants G. K. and T. P. may be restrained by the order and injunction of this honorable Court from cutting down any timber or other trees upon the said premises, or from committing any other waste thereon. And for further relief.

J. L.

*Pray Subpœna and Injunction
against G. K. and T. P.*

Bill for a specific Performance, Lessee against Lessor.

Humbly, &c. your Orator and Oratrix M. G. of, &c. W. and I. J. of, &c. That I. G. the late husband of your Oratrix, was for many years the occupier of a farm and lands at B. aforesaid, which he held by lease under the said P. B. at the yearly rent of £ , for a term of years which expired on the, &c. and that the said I. G. did some time previous to the expiration of the said lease, make application for a renewal thereof for a further term of fourteen years, to I. H. the agent of P. B. of, &c. the Defendant hereinafter named, who was the son of the lessor of the said premises, and was seized of, or otherwise well entitled to the reversion therein. And your, &c. that the said I. H. thereupon demanded the yearly rent of £ for the same farm and lands, for such new lease. And the said I. G. having objected to such increased rent, it was agreed between the said I. H. and the said I. G. that P. R. who was named by the said I. G. should meet the said I. H. and that they should together settle the new rent, upon a view and valuation of the said farm; and the said P. R. and the said I. H. did accordingly meet and settle the said rent for such further term of fourteen years at £ per annum. And your, &c. that before any further steps were taken as to the said new lease, and on or about, &c. the said I. G. departed this life,

life, and thereupon your Orator, who is the brother of your Oratrix, and I. G. a son of the said I. G. deceased, went together on the said to the said I. H. and informed him that your Oratrix was desirous to have the new lease of the said farm which had been promised to her said late husband. And it was then agreed between your Orator on the part of your Oratrix, and the said I. H. on the part of the said P. B. that your Oratrix should have a lease of the said farm and lands for fourteen years from the expiration of the old lease, at the yearly rent of £ for the first seven years, and at the yearly rent of £ for the remainder of the term, and that for the security of the said P. B. your Orator should be named as a joint lessee with your Oratrix in the said lease, and should execute the counterpart thereof. And your, &c. that the abatement of £ a year in the rent for the first seven years, was proposed by the said I. H. himself in consideration of your Oratrix's situation; and the said I. H. as soon as the agreement was concluded, made a note in writing thereof, and signed the same in the form of a letter to Mr. S. the attorney of the said P. B. and as instructions for him to prepare a lease accordingly, and delivered the said letter to your Orator, who carried it to the said Mr. S. And your, &c. that your Oratrix has, in pursuance of the said agreement, paid to the said I. H. the yearly rent of £ for the said land and premises, from the said ; and your Oratrix, upon the faith of the said agreement, with the full knowledge and approbation of the said I. H. and of the said P. B. hath laid out a very considerable sum of money in the improvement of the said farm and lands, and the buildings thereon. And your Orator and Oratrix well hoped, that the said P. B. would have granted your Orator and Oratrix a lease of the said farm and lands, as in justice and equity, &c. but now, &c. pretends, that no such agreement as aforesaid was ever made or entered into. Whereas your Oratrix charges, that the said P. B. well knew of such agreement at or immediately after the making thereof, and hath repeatedly admitted the same. And in particular did, in the month of acknowledge such agreement in the presence of G. I. another brother of your Oratrix, and T. P. and promised the said G. I. that he would take care that your Oratrix should have the lease accordingly. And the said P. B. at other times pretends that such agreement was not reduced into writing, nor signed by any person lawfully authorized on his part. *Charge*, that the said I. H. was an agent duly authorized to that effect by the said Defendant, and that such agreement was reduced into writing, and signed as aforesaid by the said I. H. not only in the letter hereinbefore stated to have been written by the said I. H. to the said Mr. S. but also in other letters written by the said I. H. to the said P. B. *Charge*, that by reason of the circumstances hereinbefore stated, the said Defendant would be bound in equity to perform the said agreement on his part, even if the same had not been reduced into writing and signed in manner hereinbefore mentioned. All which, &c. To the end, &c.

Prayer.

And that the said Defendant may answer the premises, and that the said Defendant may be decreed to grant to your Orator and Oratrix a lease of the said farm and lands pursuant to the aforesaid agreement,

ment, your Orator and Oratrix being ready and willing, and hereby offering to execute a counterpart of such lease. And for further relief.

J. L.

Pray Subpœna against P. B.

SECT. II.—BILLS BY NEXT OF KIN.

Bill by next of Kin against Administratrix for an Account of Intestate's Personality.

Humbly complaining, &c. your Orator, J. F. R. of, &c. that J. R. late of, &c. who was the father of your Orator, departed this life intestate about years since, leaving S. R. his widow, who hath since intermarried with, and is now the wife of P. of, &c. and leaving your Orator and T. R. of, &c. and J. S. now the wife of S. S. of, &c. his only children him surviving, and who were all at the time of his death of very tender years, your Orator, who was the eldest, being of age of years, or thereabouts. And your Orator further, &c. that upon or soon after the death of the said intestate, the said S. P. then his widow, obtained letters of administration of the goods, chattels, rights, and credits, and personal estate and effects of the said intestate, to be granted to her by and out of the proper ecclesiastical court, and by virtue thereof, the said S. P. and the said P. in her right, have possessed themselves of the personal estate and effects of the said intestate, to an amount greatly more than sufficient to pay and satisfy his funeral expenses and just debts. And your Orator sheweth, that he hath by himself and his agents, applied to the said P. and S. P. and hath requested them to come to a full and true account of the personal estate and effects of the said intestate, possessed by them as aforesaid, and to pay to your Orator his distributive share of the clear residue thereof, with which just and reasonable request, &c. But now, &c. absolutely refuse so to do. *Pretence personality insufficient. Charges contrary,* and your Orator charges, that the said T. R. S. S. and J. his wife, refuse to join your Orator in this suit. To the end, &c.

Prayer.

And that the said Defendants may answer the premises. And that an account may be taken, by and under the direction and decree of this honorable Court, of the personal estate and effects of the said intestate J. R. possessed by or come to the hands of the Defendants P. and S. P. or either of them, or to the hands of any other person or persons by their, or either of their order, or for their, or either of their use. And also an account of the said intestate's funeral expenses and debts. And that the said intestate's personal estate may be applied in a due course of administration, and that the clear residue thereof may be ascertained, and that your Orator may be paid his distributive share of such clear residue. And for further relief.

J. L.

Bill by next of Kin against Administrator, for a Distribution of Intestate's personal Estate.

Humbly complaining, &c. B. W. of, &c. and E. his wife, that I. W. late of, &c. was at his death possessed of, or well entitled to, a very large personal estate, and that the said I. W. departed this life on or about, &c. intestate, leaving the children of his deceased brothers W. W. and B. W. and his deceased sister A. G. his sole next of kin. And your, &c. shew, that your Orator was one of the sons of the said intestate's deceased brother W. W. and that the said W. W. had nine other children, who survived the said intestate, (that is to say) I. W. and P. W. of, &c. H. W. of, &c. &c. all Defendants hereto. And your, &c. shew that your Oratrix was one of the children of the said intestate's brother B. W. and that the said B. W. had six other children who survived the said intestate, (that is to say) &c. &c. also Defendants hereinafter named. And your, &c. shew, that the said intestate's deceased sister had two children, who survived the said intestate's sister, &c. &c. And your, &c. that upon or soon after the death of the said intestate, the said I. W. and W. W. two of the children of the said intestate's deceased brother B. W. obtained letters of administration, &c. and possessed personalties, and have thereout paid the said intestate's funeral expenses and just debts, and have now in their hands a very large surplus which is distributable amongst your Orator and Oratrix, and the said other next of kin of the said intestate. And your Orator and Oratrix have by themselves, &c. repeatedly applied, &c. and to pay your Orator and Oratrix their respective parts or shares of the said intestate's residuary estate. And your Orator and Oratrix well hoped, &c. But now, &c. absolutely refuse so to do. *Pretence personally insufficient. Charge contrary.* Charge that the said other Defendants severally refuse to join your Orator and Oratrix in this suit. All which, &c. To the end, &c.

Prayer.

And that the said Defendants may answer the premises. And that an account may be taken of the personal estate and effects of the said intestate, which have been possessed or received by the said Defendants I. W. and W. W. or either of them, or by any other person or persons by their or either of their order, or for their or either of their use. And also an account of the said intestate's funeral expenses and just debts. And that the said intestate's personal estate may be applied in a due course of administration, and the clear residue thereof ascertained and distributed amongst the next of kin of the said intestate. And that your Orator in his own right, and in the right of your Oratrix, may be paid two parts or shares of such residue. And for further relief, &c.

J. L.

*Bill by Infants against Administratrix and her Husband,
for an Account of Intestate's Property—Allowance—
Guardian—Receiver—Bank a Party—and Injunction
to restrain selling Stock. Title-deeds to be deposited.*

Humbly complaining, shew unto your Lordship, your Orators and Oratrix R. T. T. T. G. T. and C. T. all infants under the respective age of twenty-one years, by J. R. of, &c. their next friend, that R. T. late of, &c. deceased, at his death was seized or well entitled in fee-simple of or to a public house and ten messuages or tenements situate in G. aforesaid, and also of or to certain lands and premises situate at F. and of or to divers other real estates, and was also at the time of his death possessed of and well entitled to a considerable personal estate, consisting of a sum of £ 5 per cent. Bank Annuities, and a sum of £ standing in his name in the books of the Governor and Company of the Bank of England, and of debts due to him, household furniture, stock in trade, and various other particulars to a considerable amount and value. And your, &c. that the said R. T. in or about last, departed this life intestate, leaving J. T. now C. his widow, and your Orator R. T. his eldest son and heir at law, and your other Orators and Oratrix, his only other children, and next of kin him surviving. And your Orators and Oratrix shew, that upon the death of the said intestate, his said wife obtained letters of administration of the goods, chattels, rights and credits of the said intestate, to be duly granted to her, and by virtue thereof possessed the personal estate and effects of the said intestate, to an amount greatly more than sufficient to pay and satisfy his funeral expenses and just debts, and her residuary share in the said property; and also entered into possession of the real estate of the said intestate, or into the receipt of the rents and profits thereof, and got into her custody or power the title-deeds, evidences, and writings belonging thereto. And your, &c. that the said widow and administratrix of the said intestate, hath lately intermarried with, and is now the wife of D. C. of, &c. and the said D. C. hath since possessed himself of the personal estate and effects of the said intestate, to a great amount, and hath also entered into the possession or receipt of the rents and profits of the said real estates of the said intestate, and hath in his custody or power the title-deeds and writings relating thereto.

Inquiry.

And whether he hath not in his custody or power some, and what title-deeds and writings relating thereto, or what are become thereof. And that the said Defendants D. C. and J. his wife, may set forth a list or schedule of all deeds, instruments, and writings, in any manner relating to the real estates of the said intestate, which now are, or at any time since the death of the said intestate, have been in their or either of their custody or power. And may set forth what hath become of such thereof, if any, as are not now in their custody or power. And your, &c. that your Orators and Oratrix have, by themselves and their agents, made frequent applications to the said Defendants to come to an account with your Orators and Oratrix for the personal estate and effects of the said intestate respectively received by them; and your Orator

R. T.

R. T. hath in like manner applied to them to come to an account for the rents and profits of the real estates of the said intestate, with which just and reasonable requests your Orators and Oratrix well hoped, &c. But now, &c. that the said D. C. and J. his wife combining and confederating, to and with the Governor and Company of the Bank of England, and to and with divers, &c. absolutely refuse so to do, pretending that the personal estate and effects of the said intestate R. T. were small and inconsiderable, and not more than sufficient to pay and satisfy his funeral expenses and just debts, and that the whole of such personal estate has been applied in a due course of administration. *Charge contrary*, and so it would appear if the said Defendants would set forth, as they ought to do, a full and true account of all and every the personal estate and effects of the said intestate, and of their application thereof. And the said Defendants ought also to set forth a full and true account of the rents and profits of the said intestate's real estates, which have been possessed or received by them, or either of them, or by their, or either of their order, or to their, or either of their use. *Charge* that some proper person or persons ought to be appointed by this honorable Court, as the guardian and guardians of your Orator and Oratrix, with suitable allowance for their maintenance and education, and that some proper person ought also to be appointed, to receive the rents and profits of the real estates of the said intestate, and that the title-deeds, evidences and writings relating thereto, ought to be brought into this honorable Court, for the benefit of your Orator R. T. *Charge*, that the said D. C. and J. his wife threaten and intend to sell and transfer the aforesaid sums of £ 5 per cent. Bank Annuities, and £ , and to apply the produce thereof to their own use. And the Governor and Company of the Bank of England mean to permit the said Defendants to make such transfer. All which, &c.

Prayer.

And that the said Defendants may answer the premises. And that an account may be taken of the personal estate and effects of the said intestate R. T. which have been received or possessed by the said Defendants D. C. and J. C. or by any other persons or person, by their or either of their order, or to their, or either of their use; and also an account of the said intestate's funeral expenses and just debts, and that the said intestate's personal estate may be applied in the payment of his funeral expenses and just debts, in a due course of administration; and that the clear residue thereof may be ascertained, and the shares of your Orators and Oratrix therein laid out and secured, in and by this honorable Court, for their benefit. And that an account may also be taken of the rents and profits of the said intestate's real estates, which have been received by the said Defendants, or either of them, or by any other person or persons, by their, or either of their order, or to their, or either of their use; and that what shall be found due upon such account, may, in like manner, be paid to and secured by this honorable Court, for the benefit of your Orator R. T. And that some proper person or persons may be appointed the guardian or guardians of your Orators and Oratrix, with suitable allowance for their maintenance
and

and education. And that some proper person may also be appointed by this honorable Court, to receive the rents and profits of the said real estates of the said intestate. And that the said Defendants D. C. and J. his wife, may be directed to deposit all the title-deeds, evidences and writings relating to the said real estates, in the hands of one of the masters of this honorable Court, and that in the mean time the said Defendants D. C. and J. C. may be restrained by the injunction of this honorable Court from selling or transferring the said sums of £ 5 per cent. Bank Annuities, and £ . And that the said Governor and Company of the Bank of England, may in like manner be restrained from permitting such sale or transfer, and for further relief, &c.

J. L.

OBSERVATION.

As soon as this bill is filed, the Bank of England should be served with a subpoena with notice, that the object of the suit is to restrain the transfer of the two sums of stock standing in the name of the intestate.

Bill by next of Kin for Distributive Share against an Administratrix, and for an Injunction to prevent the Transfer of Stock, under a Suggestion that she meant to leave the Country.

Humbly complaining, shew unto your Lordship, your Orator and Oratrix, S. M. of, &c. C. M. W. and A. L. W. late A. M. that A. M. late of, &c. gentleman, was, in his life-time, and at the time of his death, possessed of and well entitled to a considerable personal estate, consisting of monies in the funds, debts due to him, household goods, plate, linen, china, wearing apparel, and divers other effects, of a considerable amount and value, and particularly was possessed of a sum of £ Bank 3 per cent. Annuities, standing in his name at his death, in the books of the Governor and Company of the Bank of England. And your, &c. That the said A. M. in and about the month of , departed this life intestate, and without issue, leaving F. M. his wife, and one of the Defendants, and your Orator his brother, and your Oratrixes his sisters, and only next of kin of him surviving. And your, &c. That since the death of the said intestate, the said F. M. his wife, hath obtained letters of administration of the goods, chattels, rights, and credits, and personal estate and effects of the said intestate, to be granted to him by and out of the proper ecclesiastical court, and hath, by virtue thereof, possessed herself of the personal estate and effects of the said intestate, to a large amount and value, and greatly more than sufficient to pay and satisfy his just debts and funeral expenses, exclusive of the said sum of £ stock. And your, &c. That being entitled, as the brothers and sisters of the said intestate, to a distributive share of his personal estate, your Orator and Oratrix have, by themselves and their agents, applied to the said F. M. and requested her to come to a full and true account with your Orator and Oratrix, for the personal estate and effects of the said intestate, and to pay them respectively one third part each of one moiety

moiety of the clear residue thereof, with which just and reasonable requests your Orator and Oratrixes well hoped the said F. M. would have complied. But now so, &c. And the said Defendant pretends, that the personal estate and effects of the said A. M. were small and inconsiderable, and not more than sufficient to pay and satisfy his debts and funeral expenses, and that she hath applied all such personal estate and effects in a due course of administration. Whereas your Orator and Oratrixes charge the contrary thereof to be the truth, and so it would appear, if the said Defendants would set forth, as they ought to do, a full and true account of all and every the personal estate and effects of the said intestate, which have been possessed or received by the said Defendant, or by her or their order, or to her use, and of her applications thereof. And your, &c. That the said F. M. hath declared to several persons that she means to obtain a transfer of the said sum of £ 3 per cent. Annuities, and to sell and dispose of the same, and to withdraw herself to America with the produce thereof. And the said Defendants, the Governor and Company of the Bank of England, intend to permit her to make such transfer. All which, &c. And that the said Defendants may answer the premises.

Prayer.

And that an account may be taken by and under the direction of this honorable Court, of the personal estate and effects of the said intestate, A. M. possessed by or come to the hands of the Defendant, F. M. his wife and administratrix, or to the hands of any other person or persons by her order, or for her use; and also an account of the said intestate's debts and funeral expenses, and that the said intestate's personal estate may be applied in a due course of administration; and that the clear residue thereof may be ascertained; and that your Orator and Oratrixes may be paid one-third part each of one moiety of such clear residue; and that, in the mean time, the said Defendant, F. M. may be restrained by the injunction of this honorable Court, from selling or disposing, or transferring of the said sum of £ 3 per cent. Bank Annuities; and that the said Governor and Company of the Bank of England may be restrained from permitting such sale or transfer. And that your Orator and Oratrixes may have such further and other relief, &c.

*Pray Subpoena and Injunction
against F. M. and the Governor
and Company of the Bank of
England.*

J. L.

Bill by one of the next of Kin against an Administrator, for an Account of Intestate's Estate and Distribution. Pretence that Plaintiff's Share was expended in his Education and Maintenance.

That W. P. heretofore, of, &c. Plaintiff's late father, deceased, was, in his life-time, and at the time of his death, possessed of, interested in, and well entitled unto a considerable personal estate, consisting of household goods,

goods, plate, linen, china, wearing apparel, and other stock on his farm, stacks of hay and corn, divers articles, implements, and utensils of husbandry, ready money, monies out at interest upon bonds, mortgages, and other securities, and divers other goods and effects to a large amount and value, and greatly more than sufficient to satisfy and pay all his just debts and funeral expenses, and being so possessed, interested in, and entitled to, he the said W. P. did in or about, &c. depart this life intestate and a widower, leaving T. P., W. P., E. P., M. P., and S. P., Defendants, hereinafter named, and Plaintiff, his six children only, next of kin, him surviving.

That some time after the death of said intestate, the said W. P., his son, obtained letters of administration of his goods and chattels, rights and credits to be granted to him by and out of the proper Ecclesiastical court, and did by virtue thereof possess himself of his personal estate, which were of the said intestate at the time of his death, to a large amount in value, and more than sufficient to satisfy and pay all his just debts and funeral expenses, with a large surplus or residue, which residue became distributable in equal shares and proportions between and amongst Plaintiff, and the said other children of the said intestate, according to the statute made respecting the distribution of intestate's personal estate, and Plaintiff, as one of such children, became entitled to one-sixth part or bare of the said intestate's personal estate and effects.

That Plaintiff being so entitled as aforesaid, hath applied, &c. to his said brother, the said W. P. and requested him to come to an account with Plaintiff for the personal estate and effects of their said father, deceased, and to pay to Plaintiff his sixth part or share of the clear residue thereof. And Plaintiff well hoped, &c.

Pretend, personally, insufficient for payment of debts, &c.

Charge contrary; and that the said personal estate and effects was more than sufficient to satisfy and pay all his funeral expenses and just debts, with a large overplus, and which Defendant W. P. will at times admit; but, &c.

Pretends that Plaintiff having lived with him for many years after the death of the said intestate, he the said Defendant hath expended a considerable sum or sums of money on the maintenance and education of Plaintiff, and which he insists he ought to be allowed to set off against Plaintiff's said claim, and retain out of Plaintiff's said distributive share of the said Testator's personal estate.

Charge, that by reason of the will hereinafter mentioned of her late aunt M. P. the Defendant is not entitled to have any sum or sums expended on the maintenance and education of Plaintiff allowed to him out of Plaintiff's said distributive share of the said intestate's personal estate.

Charge, that M. P. late of, &c. spinster, deceased, by her last will and testament, in writing, bearing date, &c. amongst other things gave and bequeathed, &c. (all her effects to W. P. and S. P. to be equally divided between them, and the other nephews and nieces, and they were to maintain Plaintiff until twenty-one, or otherwise lose their share and proportion.)

Charge, that soon after the making and publishing her said will, said Testatrix departed this life, possessed of a considerable personal estate, and particularly of such goods and effects as in her will mentioned, and leaving Plaintiff and the said Defendants, her nephews and nieces, her sur-

living; and the said Defendant S. P. hath duly proved, &c. and hath, by virtue thereof, possessed herself of the said Testatrix's personal estate and effects, and together with the other Defendants have taken possession of several goods and effects so bequeathed to them by the said will, and have retained and applied the same to their own use amongst themselves as hereinbefore is stated, and Plaintiff is thereby advised, and hereby insists that by reason of the said condition, contained in the said will, the said W. P. ought not to be allowed any charge against Plaintiff for his maintenance and education, inasmuch as the said W. P. hath already received a full satisfaction for the same in manner aforesaid, and which he will at times admit; but then, &c.

Pretends and sets up some other claims against Plaintiff, and refuses to discover the particulars thereof; and the said Defendant W. P. &c. severally refuse to join with Plaintiff in this suit, under a pretence that they or some of them have been fully paid and satisfied their shares of the said intestate's estate and effects, but how and in what manner they have been paid and satisfied the same, they severally refuse to discover. All which, &c.

Prayer.

And that an account may be taken under the directions of this honorable Court of the personal estate and effects of the said intestate W. P. the father, possessed by or come to the hands of the said Defendant W. P. or any other person or persons, by his order, or for his use; and that an account may be also taken of the said debts and funeral expenses of the said intestate W. P., and that the personal estate of the said intestate may be applied in a due course of administration, and that the clear residue thereof may be ascertained, and that one-sixth part or share of such clear residue may be paid by the said Defendant W. P. to Plaintiff. And for further relief.

SECT. III.—BILLS FOR AND AGAINST EXECUTORS.

In the Exchequer.

Bill by Husband of Legatees against an Executor for Payment of Legacy.

Humbly complaining, sheweth unto your Honors, your Orators, &c. that W. S. late of , duly made and published his last will and testament in writing, bearing date on or about the and thereby, amongst other bequests, gave to his nephews and nieces, the children of his late sister M. A. the sum of £ each, to be paid to them as they should respectively attain the age of twenty-one years, and appointed E. T. F. of , the Defendant hereinafter named, the sole Executor of his said will, as in and by, &c. And your Orator further sheweth unto your Honors, that the said E. T. F. soon after the death of the said Testator, duly proved the said will in the proper Ecclesiastical Court, and hath since possessed himself of the personal estate and effects of the said Testator, to an amount much more than sufficient for the payment of his just debts, funeral expenses, and legacies. And your Orator, &c. that after the death of the said Testator, your Orator intermarried with A. A. who was the niece of the said Testator, and one of the children of the said M. A. the sister of the said Testator, in the said will named, and by virtue of such intermarriage, your Orator, in right of his said wife, became entitled to demand and receive the aforesaid bequest of £ . And your Orator, &c. that your Orator's said wife lived to attain her age of twenty-one years, and that she hath lately departed this life, and that neither your Orator nor his said wife received any part of the said legacy; and your Orator sheweth, that having obtained letters of administration to his said wife, he hath repeatedly applied to the said E. T. F. for payment of the said legacy, and interest thereon, from the time of his said late wife attaining her age of twenty-one years, and your Orator well hoped that such your Orator's reasonable requests would have been complied with, as in justice and equity they ought to have been. But now so it is, &c. the said Defendant refuses so to do, &c. To the end therefore, &c.

Prayer:

And that an account may be taken of what is due and owing to your Orator for the principal and interest of the said legacy, and that the said Defendant may be decreed to pay the same to your Orator; and if the said Defendant shall not admit assets of the said Testator sufficient to answer the same, then that an account may be taken of the estate and effects of the said Testator which have been possessed or received by the said Defendant, or by any other person by his order or to his use, and that the same may be applied in a due course of administration. And for further relief, &c.

J. L.

OBSERVATION.

A husband may, if he thinks fit, give to his wife a disposing power over any property, and that it may therefore turn out in this case that a

Plaintiff

Plaintiff has no interest in this legacy, but at all events he has no right of suit without taking out administration to his wife, but it will be sufficient to sustain this bill if he obtain letters of administration any time before the hearing, and it will not be advisable to put himself to that expense until the Defendant has put in his answer, so that it may be seen whether it is worth his while to prosecute the suit.

Bill by Executor to establish Will, and carry the Trusts into Execution.

Humbly complaining, sheweth unto your Lordship your Orator, C. R. of , Executor of the will and codicils of M. S. late of , deceased, and also a Trustee, Devisee, and Legatee named in the said will and codicils, that the said M. S. at the several times of making her will and codicils hereinafter mentioned, and at the time of her death, was seized or entitled in fee-simple of or to divers messuages, lands, tenements, and hereditaments of considerable yearly value, in the several counties of C. and D. and being so seized or entitled, and also possessed of considerable personal estate, the said M. S. on or about the day of made her last will and testament in writing of that date, and which was duly signed and published by her, and attested in such manner as by law is required for devising real estates; and thereby after giving divers pecuniary and specific legacies, and divers annuities, the said Testatrix gave and devised unto your Orator all, &c. (state substance of the will); and the said Testatrix afterwards, on the day of made a codicil to her said will of that date, which was duly signed and published by her, and attested as by law is required for devising real estates. And thereby, after giving, &c. and in all other respects she thereby confirmed her said will, and all other codicils by her theretofore made, as by the said will and the said several codicils thereto, and the probate thereof, to which your Orator craves leave to refer, when produced will appear; and your Orator further sheweth unto your Lordship, that the said Testatrix M. S. departed this life on or about the day of without having revoked or altered her said will and codicils, save as such will is revoked or altered by the said codicils, and as some of the said codicils have been revoked or altered by some or one of such subsequent codicils; and the said Testatrix at her death left the said F. G. formerly E. S. and the said B. S. her cousins and co-heiresses at law, and your Orator being by the said codicil of the appointed sole Executor of the said Testatrix's will and codicils, hath since her death duly proved the said will and codicils in the proper Ecclesiastical Court, and taken upon himself the execution thereof; and your Orator further sheweth unto your Lordship, that the said Testatrix at the time of her death, was possessed of, interested in, and entitled unto a considerable personal estate and effects, and (amongst other things) she was entitled to an eighth share and interest in a certain copartnership trade or business of a tin-blower and tin-melter, which was carried on by the said Testatrix and certain other persons, at in C. aforesaid, in the firm of S. F. and Co. in which the said Testatrix had some share of the capital, and which was a profitable business, and by the

the articles of copartnership under which the said business was carried on, your Orator, as the said Testatrix's personal representative, is now entitled to be concerned in such share of the said business, for the benefit of the said Testatrix's estate; and she was also possessed of or entitled to certain leasehold estates held by her for the remainder of certain long terms of years, determinable on lives, and your Orator further sheweth, that he hath possessed himself of some parts of the said Testatrix's personal estate, and hath discharged her funeral expenses and some of her debts and legacies; and your Orator hath also, so far as he hath been able, entered into possession of the said Testatrix's estates, which she was seized of or entitled to at the times when she made her said will and codicils, and which consisted of, &c. being all together of the yearly value of £ or thereabouts, besides the said mansion house, and besides the premises, which by the said codicil, dated the day of are devised to your Orator for his own use and benefit; and your Orator is desirous of applying the said Testatrix's personal estate and effects (not specifically bequeathed) in payment of the said Testatrix's funeral expenses and debts, and of her legacies and annuities bequeathed by the said will and codicils, and of paying the remainder thereof out of the rents and profits of the said real estates, and of applying the whole of the said rents and profits according to the directions of the said will and codicils, as in justice and equity ought to be the case. But now so it is, &c. in concert with each other, make various objections to your Orator's applying the said personal estate and the rents and profits of the said real estate, according to the directions of the said will and codicils; and the said J. G. and E. his wife, and B. S. sometimes alledged that neither the said will nor any of the said codicils were duly executed and attested, so as to pass real estates, and that the said Testatrix was not of sound and disposing mind, memory, and understanding, at the several and respective times when she executed the said will and codicils; whereas your Orator charges the contrary of such pretences to be true, and that the said Testatrix's real estates were well devised by the said will and codicils in manner hereinbefore stated; and the said Defendants J. G. and E. his wife, sometimes pretend, that by virtue of the said Testatrix's will they are entitled to the residue of the said Testatrix's personal estate, not specifically bequeathed, including all her leasehold estates, after payment of all her funeral expenses and debts, and that the said personal estate is not subject to the payment of the several legacies and annuities given by the said Testatrix's said will and codicils, but is exempt therefrom, and that all the said legacies and annuities ought to be paid out of the rents and profits of the said Testatrix's real estates, whereas your Orator charges the contrary of such pretences to be true, and that the said personal estate is applicable to the payment of all the said Testatrix's legacies and annuities, after satisfying all her funeral expenses and debts; and the said J. G. and E. his wife are desirous that your Orator, as the personal representative of the said Testatrix, should, by means of the said Testatrix's share of the capital employed in the said trade or business, carry on the said trade or business for the benefit of them and of the said Testatrix's estate, but which your Orator cannot safely do without the direction and indemnity of this Court; and the said J. G. alledges, that he is not of ability to maintain and educate his said son J. S. G., who as tenant in tail of the said devised estates, subject to the said term of 100 years, and is an infant

of the age of ten years or thereabouts, and he therefore claims to have some part of the rents and profits of the said premises paid to him, for the maintenance and education of the said J. S. G.; and your Orator, under the circumstances aforesaid, is unable to administer the said personal estate, and to execute the trusts of the said real estates, without the directions of this honorable Court, and the Defendants are desirous of having a person appointed by this Court to receive the rents and profits of the said real estates, devised as aforesaid by the said fifth codicil, to which your Orator has no objection. In consideration, &c. to the end, &c.

Prayer.

That the said will and codicils may be established, and that the trusts thereof may be performed and carried into execution, by and under the direction of this Court, and that an account may be taken of the said Testatrix's personal estate and effects, not specifically bequeathed, and of her funeral expenses and debts, and of the legacies and annuities bequeathed by the said will and codicils, your Orator being ready, and hereby offering to account for all such parts of the said personal estate as have been possessed by him, and that the said personal estate may be applied in payment of the said funeral expenses, debts, legacies, and annuities, in a due course of administration, and that the clear residue (if any) of the said personal estate, may be ascertained and paid to the said Defendants, J. G. and E. his wife; in her right, and in case it shall appear that the said personal estate, not specifically bequeathed, is not sufficient for payment of all the said funeral expenses, debts, legacies, and annuities, or that any parts thereof are not payable out of such personal estate, then that proper directions may be given for payment of such deficiency, or of such parts thereof as are not payable out of the said personal estate, according to the trusts of the said term of 100 years, vested in your Orator as aforesaid, and that an account may be taken of the rents and profits of the said real estates, comprised in the said term, received or come to the hands of your Orator, and that the same may be applied according to the trusts of the said term; and that proper directions may be given touching the effects specifically bequeathed by the said will and codicils, as heir-looms, and that proper inventories may be made thereof; and that all necessary directions may be given touching the application of a sufficient part of the rents and profits of the said real estates to the maintenance and education of the said J. S. G., in case this Court shall be of opinion that any allowance ought to be made for that purpose; and that a proper person may be appointed by this honorable Court to receive the rents and profits of the said real estates, devised as aforesaid by the said fifth codicil. And for further relief, &c.

*Pray Subpœna against I. G. and
E. his wife, B. S., and J. S. G.*

R. S.

Bill to establish a Will, and an Account which of the Executors possessed himself of Part of Personals. Injunction to restrain Executors from receiving any further Parts—Receiver—Guardian—Allowance—Widow makes her Election.

Humbly complaining, shew unto your Lordship, your Orators and Oratrixes, R. M. W. M. H. M. I. M. &c. &c., infants, by their next friend, that P. M. late of, &c. was, at the time of making his will herein-after mentioned, and at his death, seized in fee-simple of, or otherwise well entitled to, divers freehold messuages, lands, tenements, hereditaments, and premises, situate, &c. and was also possessed of, interested in, or well entitled to, a considerable personal estate, and that the said P. M. duly made and published his last will and testament in writing, bearing date on or about, &c. which was executed and attested as by law is required to pass real estates, and was, amongst other things, in the words and figures, or to the purport and effect following, (that is to say) "This is," &c. As in and by, &c. and your, &c. that the said Testator departed this life on or about, &c. without altering or revoking his said will, leaving R. D. M., now of, &c. and one of the Defendants hereto, who was then an infant, but hath since attained his age of twenty-one years, his eldest son and heir at law; and your, &c. that P. M. of, &c. W. M. of, &c. and I. D. of, &c. who were the Executors and Trustees in the said will named, and are three other Defendants hereto, upon or soon after the death of the said Testator, duly proved the said will in the proper Ecclesiastical Court, and took upon themselves the execution thereof, and possessed the personal estate and effects of the said Testator to a great amount, and the said Defendants also entered into the possession of the real estates of the said Testator, or into the receipt of the rents and profits thereof, and have ever since continued, and now are in such possession or receipt; and your, &c. that M. M. of, &c. another Defendant hereto, who was the wife of the said Testator in the said will named, and now continues his widow, hath elected to take the provisions intended for her by the said will of the said Testator, in lieu and bar of dower; and your, &c. that very large sums of money have been received by the Defendants, the Executors and Trustees of the said Testator, from his real and personal estate, which have not been laid out and invested upon the trusts of the said will, and in particular your Orators and Oratrixes shew that the said I. D. hath now in his hands a balance due to the said Testator's estate, of the sum of £ and upwards. And your, &c. also shew that the said P. M. and I. D. in or about the year , sold the shares and interest of the said Testator in two ships called the, &c. to H. C. and W. I. of, &c. for the sum of £ , for which they took the bond of the said H. C. and W. I. bearing interest at 5 per cent. And your, &c. that the said I. D. who is in possession of the said bond, hath given notice to the said H. C. and W. I. to pay to him the principal and interest due on the said bond, on the day of which principal and interest will amount to the sum of £ . And the said I. D. intends to receive the said sum of £ and to retain and apply the same to his own use. And your, &c. that the said will of the said Testator ought to be established, and the trusts thereof

themselves performed and carried into execution, by and under the decree of this honorable Court, and that some proper person ought to be appointed by this honorable Court to collect the outstanding personal estate of the said Testator, and to receive the rents and profits of his real estate. To the end, &c.

Prayer.

And that the said Defendants may answer the premises, and that the said will of the said Testator may be established, and the trusts thereof performed and carried into execution, by and under the decree of this honorable Court, and the rights and interests of your Orators and Oratrixes under the same, may be declared and secured, and that an account may be taken of the personal estate of the said Testator, and of the rents, profits, and produce of the real estate, which have been possessed or received by the said Defendants P. M. W. M. and T. D., or either of them, or by any other person or persons by their, or either of their order, or for their or either of their use, and that in the taking of such account, the said Defendants may respectively be charged with interest for such balances as shall appear to have been in their hands from time to time, and that what shall be found due from the said Defendants may be secured in this honorable Court, for the benefit of all parties interested therein; and that an account may be taken of the funeral expenses, debts, and legacies of the said Testator, and that the same may be paid in due course of administration; and that in the mean time the said Defendants, the Executors, and Trustees of the said Testator, may be restrained by the injunction of this honorable Court from receiving any further part of said Testator's personal estate, or of the rents, profits, or produce of his real estate, and that some proper person may be appointed by this honorable Court to receive and collect the outstanding personal estate of the said Testator, and to receive the rents, profits, and produce of his real estate; and that some proper person or persons may also be appointed the guardian or guardians of your Orators and Oratrixes, with suitable allowances for their maintenance and education. And for further relief, &c.

J. L.

Bill by Executor for the Directions of the Court.

States will and death of Testator, and state of Legatees.

That Plaintiff, as the Executor and Trustee named in the said Testator's will, hath been at all times, and still is ready and willing to administer and distribute the residue and clear surplus of said Testator's personal estate, and the money to arise by sale of said Testator's real estate, which hath not yet been sold in a proper manner, and Plaintiff well hoped that the rights and interests of the several parties therein would have been ascertained and settled without suit; but so it is, that (the several claimants) severally claim different and distinct interests, in opposition to each other, in the residue and clear surplus of the said Testator's personal estate,

estate, and the money to arise by sale of the real estate, and in particular A. B. pretends to be entitled to said C. D.'s share of and in, &c. by virtue of some assignment thereof which he pretends to have had executed to him by the said C. D.; and by reason or on account of such opposite claims and interests, Plaintiff is unable to divide and pay the residue, &c. amongst the said several claimants, or any of them, with safety to himself, without the sanction and direction of this Court for his indemnity, or until the aforesaid several claims shall have been decided upon; therefore that the rights and interests of the several parties to and in the residue and clear surplus of the said Testator's estates, and the produce thereof, may be ascertained and declared by and under the decree of this honorable Court.

Prayer.

That an account may be taken of the personal estate and effects of said Testator, and the produce thereof possessed or received by, or by the order, or for the use of Plaintiff, and also of said Testator's debts and legacies, and funeral and testamentary charges; and that an account may also be taken of the rents and profits of said real estates of said Testator, possessed or received by, or by the order, or for the use of Plaintiff, and which accounts Plaintiff is ready and willing, and hereby offers to come to in such manner as this Court shall direct, upon being indemnified, and having all just allowances made to him in the taking of such accounts; and that the real estates of the said Testator may be directed to be sold, and that proper directions may be given for the distribution and payment of the residue and clear surplus of said Testator's personal estate, and also of the money arising by sale of his real estates, Plaintiff hereby offering and submitting to divide and pay the same to such persons, and in such manner, as this Court shall direct, being indemnified therein, and paid his costs and expenses occasioned thereby, and of this suit. And for further relief, &c.

Bill for an Account against Executors, and Tenant for Life, and to have the Residue secured for Benefit of those interested.

Humbly complaining, shew unto your Lordship your Orators and Oritrises, P. J. of A. J. his wife, and E. J. W. H. J. P. K. J. M. J. S. J. infants under the age of 21 years, by the said P. J. their father, and next friend, That W. H. late of the parish of in the county of , duly made and published his last will and testament in writing, bearing date on or about the and thereby amongst other things, gave and bequeathed in the words and figures, or to the purport and effect following, that is to say, (*state the will*) (the substance is, that he gave all his personal estates to his wife for her life, afterwards to Plaintiffs.) That the said W. H. afterwards made a codicil to his said will in his own hand-writing, and bearing date on or about the and in the words and figures, or to the purport and effect following, that

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is to say, (the Testator gave to his son, R. K. H. £ after the death of his wife,) as in and by the said will and codicil, or the probate thereof, reference, &c. And your, &c. that the said Testator departed this life on or about the without having altered or revoked his said will, except so far as the same is altered by the said codicil, and without having altered or revoked his said codicil. And your, &c. that S. H. the widow of the said Testator, and the said W. B. and T. O. two executors in his said will named, and all Defendants hereto, have duly proved the said will and codicil, in the proper Ecclesiastical Court, and taken upon themselves the executorship thereof, and by virtue thereof, have possessed themselves of the personal estate and effects of the said Testator to a large amount and value, and greatly more than sufficient to pay and satisfy his just debts, funeral expenses and legacies, &c. That your Oratrix A. J. is the daughter of the said Testator, in his said will mentioned, and that your Orator and Oratrixes (*the names*) are the only children of the said A. J. and your Orator P. J. and, &c. that they have by themselves and their agents repeatedly applied to the said S. H. W. B. and T. O. and have requested them to come to a full and true account with your Orators and Oratrixes for the personal estate and effects of the said Testator, and to secure and invest the residue and clear surplus of the said Testator's personal estate, for the benefit of your Orators and Oratrixes according to their respective rights and interests therein, and well hoped the said Defendants would have complied with such your Orators and Oratrixes reasonable requests, as in justice and equity they ought to have done. But now, &c. and the said Defendants pretend that the personal estate and effects of the said W. H. were small and inconsiderable, and not more than sufficient to pay and satisfy his funeral expenses, debts and legacies, and that they have applied all such personal estate and effects in a due course of administration. Charge the contrary to be the truth, and so it would appear if the said Defendants would set forth, as they ought to do, a full and true account of all and every the personal estate and effects of the said Testator which have been possessed or received by them the said Defendants, or either of them, or by their, or either of their order, or to their, or either of their use, and of their application thereof. And your Orator and Oratrixes further charge, that the said Defendants ought to make out an inventory of the said Testator's household goods, household furniture, and implements of household, plate, china-ware, and ware generally so called, and household linen, and which inventory ought to be signed by the said S. H. and deposited with one of the masters of this honorable Court, for the benefit of all parties interested therein. All which, &c. to the end, &c.

Interrogating Part.

That the said Defendant may answer and set forth whether the said Testator W. H. did not duly make and publish his last will and testament and codicil thereto in writing, of such respective dates, purport, and effect as hereinbefore, in that behalf set forth, so far as the same is set forth, or some other, and what dates, and to some such or the like, or some other and what purport and effect, and whether the said Testator did not depart this life at or about the time aforesaid, or when did he die, and whether he ever, and when, in any, and what manner altered

altered or revoked his said will, other than as the same may be altered by the said codicil, and whether he ever, and when, in any, and what manner, altered or revoked his said codicil, and whether the said Defendants S. H. W. B. and T. O. did not duly prove the said will and codicil in the proper and what Ecclesiastical Court, and whether they or one and which of them did not take upon themselves or himself the executorship thereof, or how otherwise, and whether by virtue thereof or otherwise, and how the said Defendants or one and which of them did not possess themselves, herself, or himself, of the personal estate and effects of the said Testator, to a large and what amount and value, and whether not greatly more than sufficient to pay and satisfy his funeral expenses, just debts and legacies, and whether your Oratrix A. J. is not the daughter of the said Testator in his said will mentioned, and whether your Orators and Oratrixes (*the names*) are not the only children of the said A. J. and your Orator P. J. And whether your Orator and Oratrixes have not by themselves and their agents made such application and requests to the said Defendants or some or one and which of them, as hereinbefore in that behalf stated, or some other, and what applications and requests to such or the like or some other and what purport and effect. And whether they have not refused to comply therewith, and for what reason. And that the said Defendants may set forth a full, true, and just inventory and account of all and singular, the goods, chattels, personal estate and effects whatsoever, which the said Testator W. H. was possessed of, interested in, or entitled to, at the time of his death, and all the particulars whereof the same consisted, and the quantities, qualities, full, real and true values of all and every such particulars. And whether all or some, and which of such particulars have not, and when been possessed or received by, or come to the hands of the said Defendants, or some or one and which of them, or some and what persons or person by their or either of their order, or for their or either of their use, and how and in what manner, and when and where, and by and to whom, and for how much the same and every part thereof hath been sold and disposed of, and what parts thereof, and to what value and amount now remain undisposed of, and what are become thereof. And also a particular account of all and every the debts whatsoever, which were justly due and owing from the said Testator at the time of his death, and to whom, and for what, and on what securities, if any, the sums were respectively due. And whether any and what sums of money have been since paid in or towards the discharge of all or any, and which of the said debts, and when and by whom, and to whom, and for what. And whether any and what sum or sums of money, do or doth now remain unpaid on account thereof.

Prayer.

And that the said Defendants may answer the premises; and that an account may be taken of the personal estate and effects of the said Testator, possessed by or come to the hands of the said Defendants, or either of them, or to the hands of any other person or persons by their or either of their order, or for their or either of their use. And also an account of the said Testator's debts, funeral expenses and legacies. And that the said personal estate may be applied in payment of the said Testator's debts, funeral expenses and

and legacies in a due course of administration. And that the residue and clear surplus may be ascertained and secured by and under the direction of this honorable Court, for the benefit of your Orator and Oratrixes, according to their respective rights and interests therein. And that the said Defendants may make out an inventory of the said household goods and other effects specifically given to the said Defendant S. H. for her life. And that such inventory may be signed by the said S. H. and deposited with one of the masters of this honorable Court, and for general relief.

J. L.

Pray, Subpoena against S. H. W. B. and T. O.

Bill by two Executors and Trustees, under a Will, to have the Trusts of the Will carried into execution, there being inconsistent Claims. One Executor declines to join in the Suit.

That I. C. was in his life-time, and at the time of his death, possessed of, interested in, or entitled unto a considerable personal estate, consisting, &c. and being so possessed, interested or entitled, he, in or about, &c. duly made and published his last will and testament in writing of that date, and thereby, &c.

That the said I. C. departed this life on or about, &c. without having revoked or altered his said will, leaving his three grand-children H. S. T. S. and A. S. in his said will named, and also his daughter H. S. and Plaintiffs, surviving him, and shortly after his death, she, the said H. S. and Plaintiffs, being the Executrix and Executors named in his said will, duly proved, &c. and took upon themselves the execution thereof, and of the trusts thereof. And Plaintiffs well hoped that the trusts of the said Testator's said will might have been performed, and the said Testator's effects administered without suit. But now, &c. that the said H. S. the daughter, and the said H. S. T. S. and A. S. the three grand-children of the said Testator, claim to be entitled under and by virtue of the said Testator's said will to certain parts or shares of the personal estate and effects of the said Testator, and to certain estates and interests in such parts or shares respectively, not only incompatible with each other, but also incompatible with several other bequests contained in the said Testator's said will. And Plaintiffs being by such means, and by means of the manifold contradictions and inconsistencies apparent upon the face of the said Testator's said will, put to great difficulty in executing the same, and having moreover been advised, that they cannot with safety proceed therein, without the directions of a Court of Equity, they are therefore desirous, that an account may be taken of the personal estate and effects of said Testator, and that the same may be applied, and the trusts of the said Testator's will performed and carried into execution under the direction of this honorable Court; and they have for that purpose applied to the said H. S. who is the other Trustee and Executrix named in the said Testator's said will, to join them in this suit, but she hath declined, and still declines joining them. And the said H. S. T. S. and A. S. do
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all severally decline setting forth what parts or shares, or what estate or interest they claim to be entitled to, of and in the personal estate and effects of the said Testator, in consideration whereof, and forasmuch as Plaintiffs cannot proceed to execute the trusts in the said Testator's said will, or to administer his effects with safety to themselves without the directions of a Court of Equity, nor have any adequate assistance in the premises otherwise. To the end, &c.

Prayer.

That an account may be taken by and under the direction and decree of this honorable Court, of all the personal estate and effects of the said Testator T. C. not specifically bequeathed by his will, and of the application thereof, and also of the funeral expenses, debts, and legacies, of the said Testator. And that such parts of the said Testator's personal estate and effects as shall be found to be remaining unapplied and undisposed of, may be applied and disposed of in such manner as this honorable Court shall think fit, and according to the true intent and meaning of the said Testator's said will; and that the trusts of the said will may be performed and carried into execution, and that all necessary directions may be given for that purpose. And for further relief.

T. P. S.

Bill by Legatees for Payment of Legacies and Trusts of Will carried into Execution, and to supply the Defect of Copyhold Surrender.

Humbly complaining, shew unto your Lordship, your Oratrixes C. W. and S. W. infant children of S. W. and I. W. under the age of twenty-one years, by the said S. W. their father, and next friend, and A. H. M. of , that T. F. late of, &c. was, at the time, &c. (the bill states Testator was seized; made his will, together with a codicil; his death without altering will and codicil; and Executors proved same, &c.) and your, &c. that the said Testator was, in his life-time, and at the time of his death, amongst other freehold and copyhold estates seized to him and his heirs, according to the custom of W. of and in a copyhold estate, consisting of, &c.; and that the said Testator departed this life without having first surrendered the said copyhold estate to the use of his said will, by reason whereof the said W. M. the said Executor and Trustee, and the said R. M. and N. M. in the said will named, are, or assert to be, co-heirs at law of the said Testator, and upon, or soon after the death of the said Testator, claimed the said copyhold premises as descended to them, and entered into and upon the possession thereof to and for their own use and benefit. And your, &c. that the said W. M., R. M., and N. M., as such Trustees as aforesaid, have, since the death of the said Testator, entered into possession of all other the said Testator's freehold estates, and have proceeded to a sale thereof, or the greatest part thereof, and have received the purchase monies arising therefrom, which, together with the personal estate and effects of the said Testator, possessed by them, amount to a very large sum, and are greatly more than sufficient to pay and discharge the said Testator's just debts, funeral expenses, and legacies.

And

And your, &c. that the said R. M. was, at the making of the will, and of the death of the said Testator, married unto A. M. one of the Defendants hereafter named, but that the said R. M. hath not, nor had at the time of the death of the said Testator, any children or child, and that the said N. M. was and is at the time of making of the said will, and at the death of the said Testator, unmarried, and without children; and your, &c. that your Oratrix A. H. M. is entitled to have and receive, in present money, of and from the said Trustees, the said sum of £ , which in and by the said will is directed to be by them invested in the purchase of 3 per cent. Consolidated Bank Annuities, and to be applied for her use and benefit, in manner in the said will mentioned, and is also entitled to have one-third part or share of the residue of the real and personal estate of the said Testator, invested and secured for her benefit, pursuant to the directions of the said will; and that your other Oratrices are entitled to have the said sum of £ , in the said will mentioned, and also two-third parts or shares of the residue of the real and personal estate of the said Testator, invested and secured for their benefit respectively, pursuant to the directions of the said will; and your Oratrices, being so entitled as aforesaid, have caused many applications to be made to the said Trustees and Executors, and have requested them to come to a just and fair account with your Oratrices for the personal estate and effects whereof the said Testator died possessed, and of the produce thereof, and of the monies arising therefrom, and of the rents and profits and purchase monies of his real estates received by and by the order or for the use of the said Trustees and Executors, and also to an account of the said Testator's debts, funeral expenses, and legacies, and that his debts and other charges and expenses might be thereout paid in a course of administration, and in particular your Oratrix's A. H. M.'s legacy of £ might be thereout paid, and that the clear residue of said Testator's estate might be ascertained and placed out and secured for the benefit of your Oratrices as they are respectively entitled thereto, pursuant to the said will. And that the trusts of the said will might be carried into execution, with which just, &c. But, &c. *Pretence, no will made; charge contrary. Pretence, personals insufficient; charge, contrary.* And the said W. M., R. M., and N. M., who are or pretend to be the said Testator's co-heirs at law, at some times pretend that the said will was not so executed and attested as to pass and affect freehold estates of inheritance, and that the said Testator's real estates did not pass thereby, but descended to them as Testator's heirs at law, and they threaten that they will dispute the validity of the said Testator's will; and at other times the said Defendants will admit the validity of the said Defendant's will, but then they, together with the said A. M., pretend, that for and notwithstanding the said W. M., R. M., and N. M., as the co-heirs at law of the said Testator, did enter into and upon the aforesaid copyhold estate which the said Testator had not surrendered to the use of his will, and did claim and take the same to and for their own use and benefit, yet that the said Defendants W. M., R. M., A. M., and N. M., are, nevertheless, respectively entitled in and to the several legacies and provisions which the said Testator intended them by his said will, whereas your Oratrices charge that forasmuch as it appears by the said will to have been the manifest intention of the said Testator, that the said copyhold estate, though not in fact surrendered,

rendered, should pass to the uses of his said will, the said W. M., R. M., and N. M., by claiming and taking the said copyhold estate to and for their own use, and thereby defeating the intention of the said Testator, have forfeited all benefit and advantage which the said Testator by his said will intended to them, or either of them, or to their, or either of their wives or children. *Charge*, that the said W. M., I. M., and O. C., threaten and intend to pay and secure to the said R. M., A. M., and N. M., and also to the said W. M. all and every the legacies and benefits by the said will intended therein. All which, &c. To the end, &c.

Prayer.

And that the said will and codicil of the said Testator may be established, and the trusts thereof performed and carried into execution; and that the said W. M., R. M., and N. M., the co-heirs at law of the said Testator, by claiming and taking, to and for their own use and benefit aforesaid, the copyhold estate which the said Testator had not surrendered to the use of his will, may be declared to have forfeited the several legacies and provisions which by the said will were intended to them. And that an account may be taken of the personal estate and effects of the said Testator, and of the rents and profits of his real estates, and of the monies arising from the sale thereof, which have come to the hands of the said Executors and Trustees, or any of them, or to the hands, or to the hands of any other person or persons, by their or any of their order, or for their or any of their use; and also an account of the said Testator's debts, legacies, and funeral expenses, and that such personal estate may be applied in a course of administration, and in particular that the aforesaid legacy of £ may be decreed to be paid to your Oratrix A. H. M.; and that the clear residue of the said Testator's estate and effects may be ascertained, and, together with the said sum of £ in the said will given to your Oratrix J. W. during her life, may be placed out and secured for the benefit of your Oratrixes, according to their several and respective rights and interests therein, pursuant and agreeably to the trusts of the said will. And that for these purposes all proper directions may be given. And for further relief, &c.

J. L.

SECT. IV.—BILLS FOR AND AGAINST TRUSTEES.

Bill to remove Trustees, one refusing to act, and the other having applied Part of the Trust Monies to his own Use. Injunction to restrain them from receiving further Sums; for the Appointment of new Trustees and a Receiver.

Humbly complaining, &c. your Orator and Oratrixes J. E. of, &c., S. E. the elder, the wife of the said I. E., and S. E. the younger, spinster, the daughter and only child of the said I. E. and S. E. That by indenture, bearing date, &c. , and made or expressed to be made between your Orator and Oratrix I. E. and S. E. the elder, of the one part, and N. B. of, &c., and R. P. late of, &c., but now a prisoner in his Majesty's gaol of , and the Defendants hereinafter named, of the other part. After reciting, &c. As in and by, &c. And your Orator and Oratrixes further shew unto your Lordship, that the said R. P. hath principally acted in the trusts of the said indenture, and hath by virtue thereof, from time to time, received considerable sums of money and other effects, but the said R. P. hath applied only a small part thereof upon the trusts of the said indenture, and hath applied and converted the residue thereof to his own use, and in particular the said R. P. hath, within a few months past, received a considerable sum from the estate and effects of the said C. E. the whole of which he applied to his own use; and your Orator and Oratrix shew that they have by themselves and their agents repeatedly applied to the said R. P. and N. B. for an account of the said trust property received and possessed by them, and of their application thereof. And your, &c. well hoped, &c. But, &c. absolutely refuse so to do. And the said Defendants pretend, that the trust property and effects, possessed and received by them, were to an inconsiderable amount, and that they have duly applied the same upon the trust of the aforesaid indenture. *Charge contrary, &c.*; and so it would appear, if the said Defendants would set forth as they ought to do, a full and true account of all and every the said trust property and effects, which they have respectively possessed and received, and of their application thereof. *Charge*, that the said R. P. threatens and intends to use other parts of the said trust property, and to apply the same to his own use, unless he is restrained therefrom by the injunction of this honorable Court. *Charge*, that he, as well the said W. B., ought to be removed from being Trustees under the said indenture, and that some other persons ought to be appointed by this honorable Court as such Trustees in their place and stead, and that in the mean time some proper persons ought to be appointed to receive and collect the said trust property. To the end, &c. And that the said Defendants may answer the premises.

Prayer

Prayer.

And that an account may be taken of all and every the said trust property and effects which have, or but for the wilful default and neglect of the said Defendants might have been received by them, or either of them, or by any other person or persons, by their or either of order, or to their or either of their use; and also an account of their application thereof. And that the said Defendants may respectively be decreed to pay what shall appear to be due from them upon such account; and that the said Defendants may be removed from being Trustees under the said indenture, and that it may be referred to one of the Masters of this honorable Court to appoint two other persons to be the Trustees under the said indenture, in their place and stead; and that in the mean time some proper person may be appointed to receive and collect the said trust estate and effects, and that the said Defendants may be restrained by the order and injunction of this honorable Court from any further interference therein. And for further relief, &c.

J. L.

Bill for the Appointment of a new Trustee under a Marriage Settlement, there being no such Power therein contained. Trustee willing to be removed.

Humbly complaining, &c. your Orators and Oratrixes I. M. P. of, &c. and E. his wife, A. P. and C. P., all infants under the age of twenty-one years, by the said I. M. P. their father, and next friend, and S. N. M. of, &c. (the other Trustee under the settlement), that by certain indentures of lease and release, bearing date respectively, &c. the release being of three parts, and made, or expressed to be made, between, &c. (*set out indenture*). But the said indenture contained no power or authority to appoint a new Trustee in the place or stead of either of the said Trustees therein named, who should decline to act in the said trusts, or be desirous to be removed therefrom, as in and by, &c. And your, &c. That the said intended marriage was, soon afterwards, had and solemnized between your Orator I. M. P., and your Oratrix E. P.; and that your Orators and Oratrixes (the children) are the only children of the said marriage; and your Orators and Oratrix shew that the said Defendant, by I. P. L., declines to act in the trusts of the said indenture, and is desirous to be discharged therefrom, but by reason that no power is reserved in the said indenture for the appointment of a new Trustee, your Orators and Oratrixes are advised that he cannot be discharged from such trusts, nor any new Trustee appointed without the aid of this honorable Court. To the end, &c. And that the said Defendant may answer the premises,

Prayer.

And that it may be referred to one of the Masters of this honorable Court to appoint a new Trustee under the said marriage settlement,

in the place and stead of the said Defendant; and that the said Defendant may be directed to join in such instrument or instruments as may be necessary for conveying or releasing the said trust premises to your Orator I. N. M., and such new Trustee, upon the trusts of the said settlement; and that thereupon the said Defendant may be discharged from the trusts of the said indenture. And for further relief, &c.

J. L.

Bill for removing a Trustee who refused to act.

States the will, death, probate; personal estate insufficient, and therefore necessary to sell the whole or part of real estate, pursuant to the directions of the will. Application to Defendant, who was named a Trustee in the will, to join with Plaintiff in carrying the trusts of the will into execution, and for that purpose to make sale of Testator's estates to pay off debts, and otherwise to act in the trusts reposed in them by the will. And Plaintiff well hoped, &c. But now so it is, &c. refuses to act in the trusts of the will, and therefore Plaintiff is advised and humbly insists, that C. H. ought to release and assign all his estate and interest, in trust, to the said premises, unto I. L. his co-trustee, or otherwise, that a new Trustee ought to be appointed in place of C. H., and the said trust estate conveyed unto I. L., and such new Trustee, upon the trusts mentioned in the said will. But the said C. H. refuses to assign or convey the trusts, or any part thereof, alledging that he cannot do the same with safety without the directions and indemnity of this honorable Court. In tender consideration, &c. To the end, &c.

Prayer.

That the said C. H. may be discharged from the trusts of the will of the said Testator, and that he may release and convey all his interest in the trust estate, according to the nature thereof, unto the said I. L. his co-trustee, or that a new Trustee may be appointed in the place and stead of C. H.; and that the trust and premises may be severally and respectively duly conveyed, according to the different natures thereof, unto the said I. L. and such new Trustee, and the survivor of them, and his heirs, upon the trusts mentioned and expressed in the said Testator's will. And that all proper parties may be decreed to join therein. And for further relief.

J. L.

Bill by Trustee under a Marriage Settlement, to have replaced in the Funds a Sum of Stock, secured by Bond on the Trusts of said Settlement, and applied to the Uses of the Will of Appointee.

Humbly complaining, &c. your Orator, J. W. of, &c. that R. H. N. of, &c. one of the Defendants hereinafter named, by his bond or obligation in writing, duly executed by him, bearing date, &c. became bound

to

to S. S. late of, &c. spinster, since deceased, in the principal sum of £ with a condition there under written, reciting, &c. as by, &c. And your, &c. that a marriage was afterwards intended to be had and solemnized between W. S. of, &c. and the said S. S.; and previous thereto a certain indenture of settlement was duly made and executed, bearing date, &c. between said W. S. of the first part, the said S. S. of the second part, and F. R. S. since deceased, of, &c. and your Orator of the third part, reciting, amongst other things, the bond hereinbefore mentioned, and that (interest of money due on said bond to be paid to W. S. for life, and after his decease, without issue, to transfer principal to S. S. if then living, and, if dead, as she should appoint, notwithstanding coverture) as in and by, &c. And your, &c. that the said intended marriage was soon afterwards duly had and solemnized, but there were no children of the said marriage; and, &c. that the said F. R. S. departed this life in the life-time of the said S. S. and your Orator is thereby become the surviving Trustee under the said marriage settlement. And your, &c. that the said S. S. departed this life on or about, &c. having first duly made and published her last will and testament in writing, or a paper writing in the nature of a will, bearing date, &c. and thereby she gave and bequeathed, &c. £ (to her husband; "to her sister-in-law, B. S." £ and to her daughters, S. S. and H. S. each £ ; to her nieces, H. and E. H. £ each; to her brother-in-law, Defendant, R. H. N. £ , and appointed him Executor) as in and by, &c. And your, &c. that after the death of the said Testator, the said R. H. N. duly proved the said will, in the proper Ecclesiastical Court, and took upon himself the executorship thereof. And your, &c. that the said R. H. N. not having replaced the said stock in the said bond hereinbefore mentioned, your Orator caused a notice in writing, bearing date, &c. to be delivered to the said R. H. N. requiring him, &c. (to replace said stock). And your Orator well hoped, &c. But now, &c. R. H. N. combining with, &c. the other persons interested under the aforesaid will), pretends that the said stock was never transferred to him, or the value thereof paid to him in money; and that if such stock were ever transferred to him, or the value thereof paid to him in money, he replaced the said stock some time ago, and in the life-time of the said Testatrix, S. S. and that therefore he ought not now to be called upon to pay or replace the same. *Charges* that the said stock was, previous to his executing the said bond, transferred to him, the said R. H. N. or the value thereof was paid to him in money, and that the said stock was not replaced by the said Defendant, R. H. N. in the life-time of the said Testatrix, or at any time since, but the same now remains due and owing from the said Defendant upon the trusts of the said settlement, and which the said Defendant will, at other times, admit; but then he, and the said other Defendants, the legatees in the said Testatrix's will named, pretend and insist, that the said Testatrix disposed of the said stock secured, to be replaced by the said bond hereinbefore mentioned by her said will. *Charge*, that the said Defendant, W. S. claims to be entitled to the interest and dividends of the said stock, during his life, under the said indenture of settlement, hereinbefore mentioned. And for that purpose he hath called upon your Orator, as the surviving Trustee under the said indenture, to have the said stock replaced,

placed, and the interest and dividends thereof paid to him during his life, but which the said Defendant, R. H. N. hath refused to do. All which, &c.

Prayer.

That the said Defendant, R. H. N. may be decreed to replace the said stock, pursuant to the terms of the said bond, hereinbefore mentioned. And that he may account with your Orator for the interest and dividends of the said stock in the mean time, and that the said stock, when replaced, may be declared upon the trusts of the said marriage settlement, and the said will, or paper writing in the nature of a will of the said S. S. deceased. And for further relief.

W. C.

Bill by a surviving Trustee, to be discharged from Trusts on the Ground of Obstruction by the Husband of Cestui que Trust.

Humbly complaining, sheweth unto your Lordship, your Orator, G. B. of, &c. that J. C. of, &c. was, in his life-time, and at the time of his death, hereinafter mentioned, seized of, possessed, or well entitled to a considerable real and personal estate, and being so seized and possessed, he the said J. C. on or about, &c. duly made and published his last will and testament in writing, and which was executed, &c. And thereby, after confirming an indenture of settlement therein mentioned, of

and the several trusts and uses therein mentioned, and which have since expired by length of time, or otherwise; and after giving and bequeathing unto E. S. therein named, an annuity of £ per annum, and to his sister E. R. an annuity of £ per annum, and after charging his real and personal estate with the payment thereof, he gave and devised, &c. (all his estates to Plaintiff, S. B. I. H. and G. W. in trust, to pay aforesaid annuities, and the surplus to the sole use of Testator's daughter, E. C. for life, and after to her issue; as tenants in common, in default thereof, over). And your, &c. that after the making and publishing of such will as aforesaid, the said Testator duly made and published a codicil thereto, bearing date, &c. and thereby directed, &c. (£ per annum, to be added to aforesaid annuities, and revoked the appointment of G. W. as Executor and Trustee), as in and by, &c. And your, &c. that soon after the making and publishing the said last will and codicil, and on or about, &c. the said J. C. departed this life without altering or revoking his said will, save as the same is altered by his said codicil, and without altering or revoking his said will, leaving the said E. C. I. then E. his daughter, only child and heiress at law, and Plaintiff, and the said S. B. and I. H. his Executors and Trustees, named in his said will and codicil, him surviving, and upon or soon after the death of the said Testator, Plaintiff and the said S. B. and J. H. duly proved the said will and codicil in the Prerogative Court of the A. of C. and took upon themselves the burthen of the execution thereof, and possessed themselves of the personal estate and effects of the said Testator; and also entered into and upon the possession of his real and leasehold estates, so devised to

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to them as aforesaid, and received the rents and profits thereof, and duly applied the same, and the interest arising from the said personal estate, in the payment of the said annuities, and in the maintenance and education of his daughter, pursuant to the directions of his said will. And your, &c. that the said E. C. I. did soon afterwards, in or about, &c. by and with the privity, consent, and approbation of Plaintiff, and the said S. B. and I. H. intermarry with T. C. of, &c. whereby the said E. C. and her said husband, T. C. in her right became entitled to the residue of the said Testator's leasehold houses, premises, and personal estate so devised by his said will as aforesaid. And your, &c. that by an indenture, bearing date, &c. and made between Plaintiff and the said S. B. and I. H. of the first part, the said E. C. of the second part, and the said T. C. of the third part, being an indenture of settlement made previous to and in consideration of the marriage then intended, and afterwards had between the said E. C. and T. C. reciting, &c. (to husband for life, then to wife for life, and afterwards, as therein mentioned) as in and by, &c. And your, &c. that Plaintiff, and the said S. B. and I. H. did, upon the marriage of the said T. C. and E. C. make up an account with them of all money and effects whatsoever, had, received, produced, paid, applied, or disposed of by them or any of them, by, from, or out of the said freehold and leasehold, and of all other the real and personal estates whatsoever, which were of the said T. C. deceased, since the death of the said T. C. received by them, or any of them, in pursuance of the trust and executorship reposed in them by the said T. C. and did pay to him the said I. C. the balance due to him on such account. And they, the said T. C. and E. his wife, did thereupon execute to Plaintiff and the said S. B. and I. H. a general release, bearing date, &c. And your, &c. that there is now remaining the sum of £ , 3 per cent. Bank Annuities Consols, in the name of Plaintiff and the said S. B. the only remaining part of the trust funds mentioned in the said indenture of settlement, of, &c. And your, &c. that the said S. B. and I. H. have severally departed this life, and the said T. C. hath since also departed this life, leaving the said E. his widow and relict, and three children, viz. T. C. C. T. W. C. and C. C. then and now infants, under the age of twenty-one years, him surviving, and Plaintiff became the surviving Trustee and Executor of the said will of the said T. C. And your, &c. that the said E. the widow and relict of the said T. C. hath, some time since, intermarried with E. J. one of the Defendants hereinafter named; and since such intermarriage, the said E. J. hath obstructed Plaintiff in the execution of the said trusts of the said Testator's will, and hath got into the possession of the receipts of the rents and profits of part of the said trust estate, and hath received the same for a long time past, and insists on having a right to receive the same, and hath, for the enforcing the payment of such rents, brought ejectments and other actions against some of the tenants of the said trust estate, and distrained upon the goods of others of them, and threatens to proceed in such actions, and otherwise, against the tenants of the said premises. And the said E. J. hath applied and converted the money so received by him to his own use, without any regard to the account charged on the said estates, by the said Testator's will and codicil, and other incumbrances made thereon

by

by the said E. his wife, before her intermarriage with the said E. J. and by means thereof the said account and incumbrances are become in arrears. And Plaintiff is obstructed in the execution of the trusts aforesaid, and is threatened with divers suits and actions, for the non-performance of the said trusts, and is otherwise put to divers large expenses and costs in and about the premises, and hath been obliged to give notice to the said tenants not to pay their rents to any person but himself, and to defend them in the actions so brought. And Plaintiff being the only surviving Trustee named in the said will, is desirous of being discharged from the trusts thereof, and of assigning over the said trust premises to some other fit and proper person to be approved of by this honorable Court. And Plaintiff hath frequently, and in a friendly manner, applied by himself and others, to the said E. J. and E. his wife, and requested them to join with Plaintiff in nominating and appointing some other fit and proper person to be Trustee of the said premises, and to permit Plaintiff to assign to such person the said trust estates and premises. And Plaintiff well hoped, &c. But now, &c. E. J. and E. his wife, combining with the three infants and E. R. M. W. and R. W. and others, refuse to comply, and insist that Plaintiff shall not be discharged from the said trusts before he hath passed the accounts thereof, under a pretence that there is a large sum of money due to them from Plaintiff on account thereof, the contrary whereof Plaintiff charges to be the truth; and Plaintiff is, and always hath been, ready and willing, and hereby submits to account for the trust money received by him, and of the application thereof, in such manner as this honorable Court shall please to direct. And the said Defendant, the infants, and E. R. M. W. and R. W. do severally pretend and set up some right, claim, or interest, in, to, or out of the said trust estates and premises, or some part thereof, but severally refuse to set forth or discover what estate, right, title, or interest they, or any of them, have, or claim to have, in, to, or out of the said trust estates and premises, and how they severally derive and make out the same, and yet they refuse to permit or consent to Plaintiff's being discharged from the trusts of the said Testator's will and codicil. All which, &c.

Prayer.

That an account may be decreed to be taken of the rents and profits of the said trust estates, received by the Defendant, E. J. or any other person or persons, by his order, or for his use; and that what shall be found due from, on the balance of such account, may be paid by him to Plaintiff, to be applied and disposed of upon the trust, and for the purposes in the said Testator's will and codicil, declared and expressed concerning the same; and Plaintiff may be discharged from the trusts of the said Testator's will and codicil, upon passing his accounts, and which Plaintiff is ready and willing, and hereby submits to do, in such manner as this honorable Court shall please to direct; and that it may be referred to one of the Masters of this honorable Court to approve of three or more fit persons to be Trustees of the trust estate, funds, and premises, in the place and stead of Plaintiff; and that Plaintiff may be at liberty
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to assign, transfer, and convey the said trust estates and premises unto such new Trustees, when approved of by this honorable Court; and that Plaintiff may be indemnified in so doing, by the orders and directions of this Court, and may retain or be allowed out of the trust monies now in his hands, or which shall hereafter come to his hands, all and every his reasonable costs and charges in and about the premises aforesaid, or that he may be paid the same by the said Defendant E. J. and that, in the mean time some proper person may be appointed by this honorable Court receiver of the rents and profits of the said trust estates, and that the necessary directions may be given in that behalf; and that the said E. J. may be restrained by the orders and injunctions of this honorable Court, from all further and other proceedings at law, against the tenants of the said trust estates, or any of them, and from any further receipt of the rents and profits thereof, or otherwise intermeddling with the trust estates, monies, and premises. And for further relief.

T. N.

Bill by Husband and Wife against the Trustees of their Marriage Settlement, to have the Portion raised for younger Children paid.

Humbly complaining, sheweth unto your Lordship, your Orator and Oratrix C. C. of . . . , esq. and the honorable C. G. H. late C. G. H. F. his wife, and your Oratrices — C. — C. — C. infants under the age of twenty-one years, by your Orator, their father and next friend, that the right honorable T. lord F. late grandfather of the right honorable T. now lord F. one of the Defendants hereinafter named, was, in his lifetime, and at the time of making his will hereinafter mentioned, and at the time of his death, seized or well entitled in fee-simple of or to divers messuages, manors, lands, tenements, and hereditaments, situate and being in the several counties of W., S., M., S., and H., which were of very considerable annual value, and had been devised to him by the will of T. then late lord F. deceased. And being so seized and entitled, and being of sound and disposing mind, memory, and understanding, the said T. lord F. the grandfather of the said Defendant lord F. on or about the . . . day of . . . , made his last will and testament in writing, of that date, (which was duly signed and published by him, and attested, as by law is required in cases of devises of real estates,) and thereby gave and devised all that the manor or lordship and capital messuage called . . . , and all other the messuages, manors, lands, tenements, and hereditaments, late belonging to T. lord F. deceased, which he was entitled to under his lordship's will, or otherwise, in the counties of W., S., M., S., and H., or either of them, (except the manor of M., in the said county of W.) and also all messuages, lands, tenements, and hereditaments, part or parcel thereof, or at any time purchased of the then late lord M. together with such other estates then late the property of the said T. lord F. as were thereafter otherwise devised, with their rights and appurtenances, whether freehold, leasehold, or copyhold, (subject nevertheless to the charge thereafter mentioned,

for

for making up the deficiency, if any should arise in paying his legacies therein mentioned, and all which legacies have been paid,) to the use of his brother R. F. and his steward A. T. their executors, administrators, and assigns, for the term of years, without impeachment of waste, upon trust for payment of certain debts and sums of money as therein mentioned; and after the determination of the said term, to the use of his eldest son T. F. and his assigns for life; and after the determination of that estate, to the use of the right honorable E. earl of O. and earl M. and the right honorable T. lord viscount W. and their heirs, during the life of the said T. F. in trust to preserve the contingent remainders, and from and after the death of the said T. F. to the use of J. H. and the Rev. R. F. clerk, their executors, administrators, and assigns, for the term of years, without impeachment of waste, upon certain trusts, which are all now satisfied; and after the determination of that estate, to the use of R. B. and the Licv. T. W. clerk, their executors, administrators, and assigns, for a term of years, to commence from the day of the decease of his said son T. F. in trust by and out of the rents and profits of the same manors, hereditaments, and premises, or by sale or mortgage thereof, to raise any sums of money not exceeding, in the whole, the sum of £ , for and towards the portion and provision of all and every the younger child and children of the said T. F. for such estates, in such proportions, under such restrictions, and to be paid to him, her, or them, at such time and times, with such interest or maintenance as the said T. F. should by deed or will, or appointment, executed as therein mentioned, appoint; and for want of such appointment, to be equally divided between, it more than one, share and share alike. And after the determination of the said term of years, to the use of the first and other sons of the said T. F. in tail male, with divers remainders over. And the said Testator's will was, that all the messuages or tenements which he held by lease from the trustees or devisees of the then late countess dowager of O. in the county of M. with their appurtenances, should go and be enjoyed by his said trustees, and such person and persons, upon such uses, and for such purposes, as the manor of W., and other the estates of the said T. lord F. deceased, thereinbefore limited, as far as the nature thereof would admit; and he gave all other the leasehold estates, late of the said T. lord F. which he was entitled unto by virtue of his lordship's said will, to the said R. F. and A. T. their executors, administrators, and assigns, for and upon the same uses and purposes as the said manor of W., and other the estates of the said T. lord F. as thereinbefore limited, or as near as by the tenure thereof the same could be limited, with the power of renewing such of the said leases as were renewable. And the said Testator afterwards duly made a codicil to his said will, whereby, after taking notice of the death of the said A. T. he appointed his son A. F. a Trustee in his stead, as by the said will and codicil, to which your Orator and Oratrixes crave leave to refer, when produced, will appear. And your Orator and Oratrixes further shew unto your Lordship, that the said Testator departed this life sometime after having made his said will and codicil, without having revoked or altered the same, save as the said will is altered by the said codicil, and the said Testator left T. lord F. since deceased, his eldest son and heir, who became entitled to an estate for life in the said premises

mises devised to him as aforesaid, subject to the trusts of the said term of years. And the said T. lord F. the son, afterwards departed this life in the year , leaving T. now lord F. one of the Defendants hereinafter named, his only son, and also leaving your Oratrix C. G. H. now the wife of your Orator, his only daughter and younger child; and he did not in his life-time make any appointment affecting the said sum of £ . And the said Defendant T. lord F. upon the death of his said father, and by virtue of the aforesaid will, became entitled to all the said devised premises, as tenant in tail, subject to the said term of years, and subject to the said term of years, upon the trusts of the said other term of years, having been duly satisfied. And your Oratrix C. G. H. F. as the only daughter of her said father T. lord F. became entitled to have the sum of £ raised upon the said devised premises, by virtue of the trusts of the said term of years. And your Orator and Oratrixes further shew unto your Lordship, that your Orator intermarried with your Oratrix C. G. H. some time in or about the month of , and by a certain indenture of four parts, bearing date the day of , and made between your Orator of the first part, your Oratrix C. G. H. of the second part, the honorable E. F. of S. in the county of H. and the honorable E. F. of of the third part, and the said R. B. the surviving trustee in the before mentioned term of years, of the fourth part, (being a deed to assign over the said term of years to your Orator, for securing the said sum of £) [*state the deed*]; and by a certain other indenture of three parts, bearing even date with the preceding indenture, and made between your Orator of the first part, your Oratrix C. G. H. of the second part, and the said E. F. A. F. and E. C. of , esq. and J. D. of in the county of M. esq. of the third part, (whereby the said sum of £ was settled upon the younger children which should be of the marriage of your Orator and Oratrix, [*state the deed*]; and by a certain other indenture, bearing date the day of , and made between the said R. B. of the one part, and your Orator and Oratrix C. G. H. his wife, of the other part (the said term of years was assigned by R. by way of mortgage) [*state this deed*]; and by a certain other indenture, bearing date the day of , and made between your Orator of the one part, and the said E. F. A. F. E. C. and J. D. of the other part, (whereby the premises comprized in the years term, and the said £ was assigned to the trustees as aforesaid,) [*state this also*]; as by the said several indentures, to which your Orator and Oratrixes crave leave to refer, when produced, will appear. And your Orator and Oratrixes further shew unto your Lordship, that by virtue of the said several indentures, your Orator is become entitled to the interest of the said sum of £ for his life, and after your Orator's death, the said principal sum will become the property of your Orator's younger children by your Oratrix his wife; and in default of such younger children, the same will become the absolute property of your Orator. And your Oratrixes — C. — C. and — C. are as yet the only children of the said marriage. And your Orator and Oratrixes further shew, that no payment hath been made to your Orator in respect of the interest of the said sum of £ accrued due since the said marriage, but the whole of such interest now remains due and owing to your Orator, although the interest

interest made payable for the said sum of £ is at the rate of 4 per cent. only. And your Orator being desirous of having the arrears of the said interest paid him, and of making a larger interest of the said money, which he would be entitled to do in case the same were raised and paid upon the trusts of the said indenture of settlement, your Orator hath therefore, with the consent and approbation of your Oratrix C. G. H. his wife, caused applications to be made to the said A. F. E. F. E. C. and J. D. respectively, the Trustees in whom the said term of years is now vested, and duly required them to take proper measures for raising the said sum of £ and the interest due for the same, or at least to procure the interest of the said sum of £ to be raised to 5 per cent. per annum, and to be regularly paid, in which case your Orator would have been satisfied, and hath offered to let the said money remain upon the said original security. And your Orator and Oratrixes hoped that such requests would have been complied with, as in justice and equity ought to have been the case. But now so it is, may it please your Lordship, that the said A. F. E. F. E. C. and J. D. in concert with the said T. now lord F. who is an infant under the age of twenty-one years, have refused, and now refuse, to take any measures for raising the said sum of £ and the arrears of interest due thereon, or for procuring the interest of the said money to be raised to 5 per cent. per annum. And the said Defendants alledge that they cannot safely proceed in raising the said money, or in raising the said interest, by reason of the infancy of the said Defendant lord F.; and sometimes they alledge that the said money cannot be raised by means of the said term of years, by reason that the trusts of the said term of years are not all as yet fully performed, whereas your Orator charges, that the said term of years ought not to be considered as an impediment to raising the said sum of £ , inasmuch as the said term of years is of sufficient value to raise the said sum of £ , in case the same were sold expressly subject to the said term of years, and the same ought to be done, or else the equity of redemption of the said T. lord F. in the premises ought to be foreclosed for the remainder of the said term of years, for the benefit of the persons interested in the said sum of £ ; but the said Trustees, as well as the said T. lord F. make various objections thereto. In consideration whereof, and forasmuch as your Orator and Oratrixes are remediless in the premises at the common law, and cannot have relief therein but by the aid of a Court of equity, where matters of this nature are properly cognizable and relievable, to the end therefore that the said Defendants A. F. E. F. E. C. and J. D. upon their several and respective corporal oaths, and the said T. lord F. upon his attestation upon honor, may full, true, perfect, and distinct answer make, to all the matters aforesaid, to the best and utmost of their respective knowledges, remembrances, informations, and beliefs; and that as fully as if the same were here repeated, and they thereunto severally and distinctly interrogated, and more especially that they may severally answer and set forth, in manner aforesaid, whether, &c. (*interrogate to each fact as stated in the bill.*)

Prayer.

And that an account may be taken, by and under the direction and decree of this honorable Court, of the principal and interest due and owing

owing on the aforesaid security of the premises comprized in the said term of years. And that, what shall be coming from such account, may be paid by the said Defendant T. lord F. to the said other Defendants, upon the trusts of the said settlement, and by a short time to be appointed for that purpose, or in default thereof, that the said Defendant T. lord F., and all persons entitled to redeem the said premises, by virtue of the said indenture of the day of may be debarred and foreclosed of and from all right and equity of redemption of and in the said premises comprized in the said term of years; or that what shall be coming from the aforesaid account, may be raised by sale of a sufficient part of the said premises comprized in the said term of years. And that all proper parties may join in such sale. And that such money when raised, may be paid to the said Defendants the Trustees, upon the trusts of the said settlement. And that the said Trustees may be directed to pay to your Orator what shall appear to be coming for arrears of interest of the said sum of £ out of the said money when paid to them as aforesaid. And that your Orator and Oratrixes may have such further or other relief in the premises, as to your Lordship shall seem meet, and this case may require. May it please, &c.

R. S.

Bill against Trustees for selling out Stock in their Names, under a Settlement, which, being in their Custody, Plaintiff cannot set it out more fully. Account of the Dividends, and Injunction from selling the Remainder, Bank a Party.

Humbly complaining, &c. your Orator, J. R. of, &c. that D. M. widow, late the wife of your Orator, and before her marriage with your Orator, the wife of J. H. intermarried in or about, &c. with J. H., and that previous to her marriage with the said J. H. the said D. M. was possessed of or entitled to £ 5 per cent. Annuities, or some such or the like sum or sums of the public stocks or funds which was standing in her name in the books of the Governor and Company of the Bank of England, and that on or previous to the said marriage some settlement was made of such stock, by which, in the event of the said D. M. marrying the said J. H., and there being no issue of the said marriage, such stock was to be or become the property of the said D. M., and the said stock was accordingly transferred in the names of W. T. late of, &c. deceased, and of B. N. of, &c. one of the Defendants hereinafter named, upon the trusts of such settlement, but which settlement, or a copy thereof, is in the possession or power of the Defendants hereinafter named, or some of them, who refuse to produce the same, or to set forth what is become thereof, that your Orator is unable more particularly to set forth the contents thereof. And your, &c. that the said J. H. died in the life-time of the said D. M., without issue by the said D. M., and that on or about, &c. the said D. M. intermarried with your Orator, and that she departed this life on or about, &c., and that your Orator hath pro-
cured

cured letters of administration of the personal estate and effects of the said D. his wife, to be granted to him by the Prerogative Court of Canterbury, and thereby your Orator became entitled to the said £ 5 per cent. Annuities. And your, &c. that the said W. T. is long since dead, and the said B. N. has transferred the said stock into the names of himself and T. T. of, &c. a Defendant hereinafter named, and the said T. T. and B. N. have sold out £ part of the said £ stock, and converted the monies arising from the sale thereof to their own use, and the remaining £ stock is now standing in the names of the said B. N. and T. T. in the books of the Governor and Company of the Bank of England; but they intend to sell out the remaining £ stock. And your, &c. that the said T. T. and B. N. have received divers sums of money in respect of the dividends of the said stock which they have not accounted for to your Orator, nor to his said wife in her lifetime. And your Orator has frequently and in a friendly manner, by himself and his agents, applied to the said T. T. and B. N. and have requested them to transfer to your Orator so much of the said stock to which the said D. the wife of your Orator, was entitled as aforesaid, as now remains standing in their names, and to account with your Orator for all and every the sum and sums of money received by them or either of them in respect of the dividends of the said stock, which was not paid over to the said D. in her life-time, and in respect of the said stock which hath been sold by them as aforesaid, and for the interest thereof, and the dividends which might have been made thereof, or to replace such stock so sold out by them. And your Orator well hoped, &c. But now, &c. sometimes pretend, that the said D. M. afterwards the wife of your Orator, was not at any time possessed of any such stock as aforesaid, and that they do not in any manner claim the same from her, or any person claiming from her, or that if they do, that the same hath been settled in such manner, that your Orator hath no interest therein, but that the same is vested in them or one of them, for their own use and benefit; whereas your Orator expressly charges the contrary of such pretence to be true. And that the said D. M. afterwards the wife of your Orator, was possessed of, or entitled to stock as aforesaid, which became vested in the said T. T. and B. N. in manner and upon the trusts aforesaid, or upon such or the like trusts, under which your Orator is now entitled to the same, and so it would appear if they would set forth the date and particulars of the settlement which they alledge was made thereof, and how they make out their title to the same, and would produce and leave such settlement which they alledge was made thereof, in the hands of their clerk in Court on this cause for the usual purposes, but which they refuse to do. And they threaten and intend, unless restrained by an injunction of this honorable Court, to sell out the residue of such stock. And the Governor and Company of the Bank of England, intend to permit such transfer, and if the same be sold out, the money arising from the sale thereof, will be lost. All which, &c. To the end, &c.

Prayer.

And that an account may be taken under the direction of this honorable Court, of the said monies which have been received by the said T. T.

T. T. and B. N., or by their or either of their order, or for their or either of their use, which have not been duly accounted for and paid over by them. And that they may be decreed to answer and satisfy to your Orator what shall be found due to him on taking such account as aforesaid. And also the monies which they have received on account of the stocks, so improperly sold by them as aforesaid, or to replace such stocks, and to transfer the same, and the stocks which now remain standing in their names, to your Orator, and that the said T. T. and B. N. may be restrained by an injunction of this honorable Court, from transferring the said sum of £
or £ 5 per cent. or such other stocks as now stand in their names, and which the said D. M. afterwards the wife of your Orator, was entitled as aforesaid. And that the Governor and Company of the Bank of England may be restrained by the like injunction from permitting any such transfer. And for further relief.

J. B.

SECT. V.—BILLS FOR TITHES.

In the Exchequer,

Bill by a Rector for Great and Small Tithes.

Humbly complaining, sheweth unto your Honors, J. B. clerk, rector of the parish and parish church of in the county of N. debtor and accountant to his Majesty, as by the records of this honorable Court, &c. otherwise it doth and may appear, that your Orator, in and before the year , was, and now is, the lawful rector of the said parish and parish church of H., and as such, entitled to have, receive, and take all the tithes both great and small, yearly arising, growing, renewing, and increasing within the said rectory and parish, and the titheable places thereof; and your Orator further sheweth unto your Honors, that W. B. of the parish of in the said county, farmer, hath, from Michaelmas Day (old stile) , holden and occupied, and doth now hold and occupy, a certain farm, consisting of about acres of land, within the said rectory and parish, and the titheable places thereof. And the said W. B. hath since the time aforesaid, had growing and arising on and from the said land, great quantities of wheat, barley, oats, peas, beans and other corn, grain and pulse, and grass, hay, fodder and cole-seed, flax and hemp, and hath kept and fed upon his said lands, divers ewes and other sheep which have been shorn, and have yielded divers quantities of wool and of lambs, and divers cows which have produced calves and milk, and divers mares which have produced divers foals, and divers sows which have produced pigs, and divers hens, ducks, geese, and other poultry, which have produced young, and divers hives of bees, which have produced honey and wax; and hath also kept, fed, agisted and depastured on his said lands divers sheep not producing lambs or wool in the said rectory or parish, or kept after shearing time, and divers other barren and unprofitable cattle, by the agisting and depasturing of which he hath made great profit, and hath had and taken, of and from his said lands, divers quantities of potatoes, turnips and other garden stuff, and of apples, pears, cherries, plumbs, and other fruit, and divers other titheable matters and things, the tithes whereof belonged to your Orator, as such rector as aforesaid. And your Orator further sheweth unto your Honors, that the tithes of the said several titheable matters and things were of great yearly value, and that the said W. B. hath in no manner set out and rendered unto your Orator the tithes of all or any of the said several titheable matters and things, or made to him any recompence or satisfaction for the same, as he ought to have done. And your Orator further sheweth unto your Honors, that your Orator hath frequently applied to the said W. B., and hath requested him to discover the particular quantities and numbers of the several titheable matters and things aforesaid had and possessed by him within the said rectory and parish, and the titheable places thereof, and to account with your Orator,

and

and make him satisfaction for the same, with which just and reasonable requests your Orator well hoped the said W. B. would have complied, as in justice and equity he ought to have done. But now so it is, &c. and contriving how to wrong and injure your Orator in the premises, hath absolutely refused so to do, and hath subtracted the tithes, and all and every the titheable matters and things aforesaid from your Orator, and hath not made to him any recompense or satisfaction for the same. To the end therefore, &c. and more especially may in manner aforesaid answer and set forth, whether your Orator was not, at and before the time aforesaid, and is not now the lawful rector of the parish and parish church of H. aforesaid, or how otherwise. And whether he is not as such rector or otherwise, and how entitled to have, receive, and take all the tithes both great and small, yearly arising, growing, renewing and increasing within the said parish, and the titheable places thereof, or how otherwise. And whether the said Defendant hath not since the time aforesaid holden and occupied, and doth not now hold and occupy, a certain farm, consisting of such quantity of lands as aforesaid, or some and what other quantity of land within the said parish, to the titheable places, or how otherwise. And that the said Defendant may set forth a full, true, and particular account and description of all the lands respectively comprized in such farm, and the respective quantities of the said several lands, and the manner in which the same have been respectively used and applied in cultivation since the time aforesaid. And may set forth a full, true and particular account of the quantities of wheat, barley, oats, peas, beans, and other corn, grain and pulse, and of grass, hay, fodder, cole-seed, flax, and hemp, which have, since the time aforesaid, been growing and arising, cut, taken, and carried away of and from the said lands respectively. And also a full, true and particular account of the number of ewes which, since the time aforesaid, have been kept and fed upon his said lands, and have been shorn and produced wool and lambs, and the quantities of such wool, and the numbers of such lambs which such ewes and other sheep have since the time aforesaid yielded. And also a full, true, and particular account of the numbers of cows which, since the time aforesaid, have been kept and fed upon his said lands, and have produced calves or milk, and the number of such calves, and the quantities of such milk. And also a full, true, and particular account of the number of mares which have, since the time aforesaid, been kept upon his said lands, and have produced foals, and the number of such foals. And also a full, true, and particular account of the number of sows which, since the time aforesaid, have been kept upon his said lands, and have produced pigs, and the number of such pigs. And a full, true, and particular account of the number of hens, ducks, geese, and other poultry, which, since the time aforesaid, have been kept upon his said lands, and have produced eggs, and the number of such eggs. And also a full, true, and particular account of the number of hives of bees, which have, since the time aforesaid, been kept upon his said lands, and the quantities of honey and wax which have been produced by them. And also a full, true, and particular account of the numbers of sheep not producing lambs or wool, or kept after shearing time, and the numbers and kinds of all other barren and unprofitable cattle which have, since the time aforesaid, been kept, fed, agisted or depastured on his said lands, and for how long respectively

such sheep or other cattle have been so kept, fed, agisted or depastured. And also a full, true, and particular account of the profits made by the agistment of such sheep and other cattle respectively, so far as the same were agisted for hire, and of the value of the feed and agistment of such sheep and other cattle not agisted for hire. And also a full, true and particular account of the quantity of potatoes and turnips and other garden stuff. And also of apples, pears, cherries, plums and other fruit, and all other the titheable matters and things, the tithes whereof belonged to your Orator as such rector as aforesaid, and which have been had and taken from the said lands in the possession of the said Defendant since the time aforesaid. And also a full, true, and particular account of the respective values of all and every the titheable matters and things aforesaid. And whether the said Defendant hath in any and what manner set out and rendered unto your Orator the tithes of all or any, and which of the said several titheable matters or things, or made to him any and what recompense or satisfaction for the same. And whether the tithes of all or some, and which of the several titheable matters and things aforesaid ought not to have been set out, or rendered, or satisfied to your Orator as such rector as aforesaid. And if not, why not. And whether your Orator hath not made such applications to the said Defendant as aforesaid, or some and what applications, to such or the like, or some and what other effect. And whether the said Defendant hath not refused to comply therewith, and why he so refused.

Prayer.

And that the said Defendant may answer the premises. And that the said Defendant may be decreed to come to a fair and just account with your Orator, for the single value of the tithes of all and every the titheable matters and things aforesaid. And may pay to your Orator what upon such account shall appear to be due to him. Your Orator hereby waiving all pains and penalties which have been incurred by the said Defendant, for subtracting or not setting out his said tithes or any of them. And for further relief, may it please, &c.

J. L.

Bill by Vicar for Account of Small Tithes, Pretence a Modus.

Humbly complaining, &c. that your Orator, in the year , was lawfully presented, instituted, and inducted into the vicarage of the parish and parish church of , and hath ever since been, and now is, the true and lawful vicar thereof, and as such vicar, your Orator is well and lawfully entitled to have, receive, and take all and singular the tithes yearly arising, growing, renewing, or increasing within the said parish, and the titheable places thereof, except the tithes of corn, grain, and hay; and your, &c. that I. C. of, &c. the Defendant hereinafter named, hath ever since the holden and occupied, and now holds and occupies a certain farm and lands called, &c. partly situate in the said parish of , or the tithable places thereof; and your, &c. that the said Defendant hath,

hath, in each year since the time aforesaid, had and kept upon his said farm and lands, divers ewes and other sheep, which have been shorn and yielded divers quantities of wool and numbers of lambs, and divers cows, which have produced calves and milk, and divers mares, which have produced foals, and divers sows, which have produced pigs, and divers hens, ducks, geese, and other poultry, which have produced eggs, and divers hives of bees, which have produced honey and wax; and hath also kept, fed, agisted, or depastured upon his said farm and lands, divers barren and unprofitable cattle, by the agisting and depasturing of which, he hath made great profit, and hath had and taken from his said farm and lands, divers quantities of potatoes, turnips, and other garden stuff, and of apples, pears, cherries, plums, and other fruit, and divers other titheable matters and things, the tithes whereof belonged to your Orator as such vicar as aforesaid; and your, &c. that the tithes of the said titheable matters and things are of considerable yearly value, and the said Defendant hath in no manner set out or rendered to your Orator the tithes of all or any of the said several titheable matters and things, or made to him any recompense or satisfaction for the same, as he ought to have done; and your, &c. that your Orator hath repeatedly applied to the said Defendant, and hath requested him to discover to your Orator the particular quantities and numbers of the several titheable matters and things had and possessed by him on the said farm and lands within the said parish, and the titheable places thereof, and to account with your Orator and make him satisfaction for the same, and your Orator well hoped, &c. But now, &c. and the said Defendant hath subtracted the tithes of all and every the titheable matters and things aforesaid from your Orator, and hath not made to him any satisfaction or recompense for the same; and to countenance such his proceedings, the said Defendant pretends that there hath immemorially been paid a certain modus or sum of money, in lieu and satisfaction of all vicarial tithes arising from a certain or ancient farm and lands, called, &c. in the parish of, &c. and that the said farm and lands called S. within the said parish, is part of the said ancient farm called N. and covered by the said modus, whereas your Orator charges the contrary of such pretences to be the truth; and that the said farm and lands called S., though now occupied by the said Defendant, together with the said farm called N., is no part of the said last mentioned farm, but altogether distinct therefrom, and hath only lately been occupied and confounded therewith; and in particular your Orator charges, that the said farm and lands called S. was in the year , and for many years about that time, occupied by the widow S., who duly rendered to the predecessor of your Orator the tithes of the said farm and lands, or made to him satisfaction or recompense for the same; and your Orator charges, that in the poors' rate made for the said parish, and previous to the year , the said farm and lands called N. and the said farm and lands called S., are distinctly rated; and your Orator further charges, that the said Defendant hath, or lately had in his custody or power, some deeds, instruments, books, papers, or writings, mentioning or referring to the said two farms, or one of them, and from whence it will appear that the said farms are separate and distinct, but the said Defendant refuses to produce the same. All which, &c. To the end, &c.

Bill to establish a Modus.

Humbly complaining, shew unto your Lordship, your Orators I. P., &c. of, &c. that your Orators now are, and for several years past have been respectively owners and occupiers of certain parcels of land within the said parish, hereinafter described, which are respectively parts of certain ancient meadow lands heretofore and immemorially called by the general name of A. M., that is to say, (*describe the several parcels of land, number of acres, by what name called, in whose occupation*) and your, &c. that no tithe in kind now is, or ever hath been lawfully or rightfully due or payable for hay cut or mowed on such lands, by the occupiers thereof, but that from time to time, whereof the memory of man is not to the contrary, the several yearly rates or sums hereinafter mentioned, have been, and now are lawfully and rightfully due and payable by the occupiers of such lands, being also owners thereof, at Easter in each year, to and for the use of the rector for the time being of the said rectory and parish of A., as modusses or customary payments for and in lieu of and full recompense and satisfaction of and for the tithe of hay cut or mowed on the said lands, by the occupiers, being also owners thereof respectively, that is to say, as to such parts of the said lands, in respect of which certain rents called lord's rents are, and have been immemorially payable, after the rate or proportion of one-tenth part of such rent, and as to the other parts of such lands, in respect of which no such rent was payable after the rate of for each and every acre of such meadow lands; and that such yearly rates or sums as aforesaid have been from time to time, whereof the memory of man is not to the contrary, paid by or on the behalf of the occupiers for the time being of such lands, being also at the same time owners thereof respectively, to or for the use of the rector for the time being of the said rectory and parish of A., at Easter, or so soon after as the same hath been demanded as modusses, for and in lieu and in full recompense and satisfaction of and for the tithe of hay cut or mowed on such lands, by the occupiers thereof respectively, such occupiers being also at such times respectively owners of such lands; and that such yearly rates or sums as aforesaid have been from time to time, whereof the memory of man is not to the contrary, accepted by the rectors for the time being of the said rectory and parish of A., who were the successive predecessors of M. M., clerk, the present rector of the said rectory and parish, or their lessees or farmers, as modusses or customary payments for and in lieu and full recompense and satisfaction of and for the tithes of hay cut or mowed upon any of the said lands, parcel of the said lands called by the name of A. M., by the occupiers thereof respectively for the time being, such occupiers being at such respective times also owners thereof respectively; and that no tithe in kind or other recompense or satisfaction than the said yearly rates, hath at any time within the memory of man been delivered, paid, or made, by or on behalf of any occupier of any part of such lands, being also at the time owner thereof, to or for the use of any rector of the said rectory, for or in respect of the tithe of hay cut or mowed by any occupier of any of such lands, who was at the same time the owner thereof; and your, &c. that the said several yearly lord's rents hereinafter mentioned, are payable for such parts of the aforesaid lands as are hereinafter mentioned, that is to say, (*here describe*

describe the several rates, and for what lands payable, &c.); and your, &c. that from time to time, whereof the memory of man is not to the contrary, the several yearly sums hereinafter mentioned, and no more, have been and now are respectively and rightfully due and payable at Easter in each year, by the occupiers for the time being of all the lands within the said rectory or parish of A., to and for the rector for the time being of the said rectory and parish, as modusses, for and in lieu and full recompense and satisfaction of and for the several titheable matters and things hereinafter mentioned; that is to say, for every cow, &c. and that such yearly sums have been from time to time constantly, from time whereof the memory of man is not to the contrary, paid by your Orators, to or for the use of the rector for the time being of the said rectory and parish, at Easter in each year, or so soon after as the same hath been demanded, as modusses respectively, for and in lieu and full satisfaction of the several and respective titheable matters and things hereinbefore mentioned, down to Easter, , being the last day of payment thereof preceding the induction of the said M. M. into the said rectory, and that such yearly sums have been from time to time constantly, from time whereof the memory of man is not to the contrary, until the induction of the said M. M. into the said rectory, accepted by the said rector of the said rectory for the time being, or his lessee or farmer, as modusses respectively, for and in lieu and full satisfaction of and for the several and respective titheable matters and things aforesaid; and that no tithes in kind or other recompense or satisfaction than such yearly payments, have or hath at any time within the memory of man been delivered, paid, or made, by or on behalf of any owner or occupier of lands within the said parish of A., to or for the use of any rector of the said rectory and parish, or any person for or in respect of such titheable matters and things as aforesaid, or any or either of them; and your, &c. that all the aforesaid several modusses, as well for the tithes of hay as for the tithes of such other titheable matters and things as aforesaid, are well known to have been paid and received within the said parish of A., by the parishioners of the said parish; and particularly your Orators shew, that the late Rev. I. G. who was rector of the said parish of immediately preceding the said M. M., and some of his predecessors, rectors of the said rectory, kept books of account, wherein they respectively entered the modusses, as received by them respectively, in lieu of tithes of the said titheable matters and things aforesaid, which said books of account, so kept by the said I. G. and his predecessors, wherein the said modusses are entered as received, were, upon the said M. M. being presented to and inducted into the said rectory, taken possession of by him, and the same are now in his custody or power, and are now withheld by him; and your, &c. that they are now ready and willing to pay, and have several times offered to pay, the said several modusses or ancient payments hereinbefore mentioned, to the said M. M., in lieu and satisfaction of the several titheable matters and things aforesaid; and your Orators well hoped that the said M. M. would have accepted of the said modusses, and would not have disputed the same in any manner; but now, &c. refuses to accept of the aforesaid modusses or customary payments, in lieu and satisfaction of and for the several titheable matters and things, or any or either of them, and he insists upon your Orators paying the
tithes

tithes of the several matters aforesaid in kind, sometimes pretending that there are not now, nor ever were such several modusses or customary payments as hereinbefore mentioned, or any of them, within the said parish of A., whereas your Orators charge, and doubt not but they shall be able to prove, that such modusses or customary payments have constantly and immemorially been paid and payable, in lieu of the several tithes or titheable matters aforesaid in the said parish of A., and that the said Defendant is well informed and conscious thereof, particularly for that as your Orators charge the aforesaid books of account, so kept by the said I. G. and some of his predecessors as aforesaid, or some or one of them, come to and now are or is in the possession or power of the said Defendant, and are or is by him secreted and withheld from your Orators, and that if the same were produced, such modusses or customary payments would from thence fully appear, but the Defendant refuses to produce the same to your Orators, or to any person or persons on your Orators' behalf; all which, &c. To the end, &c. whether he the said Defendant is not the true and lawful rector of the rectory and parish church of A. aforesaid, and whether they the said Defendants, the master, fellows, and scholars of college, are not impropiators of the said rectory, and whether or some or one and which of them have or hath not for several or some, and what number of years, and from time to time since, until the present time, or until some and what other time, held and occupied, and are or is not the owners or owner of such parcels of land as aforesaid, or some and what parcels of land within the said parish, or the titheable places thereof, and whether all or some, and which of such parcels of land are not parts or parcels of ancient meadow lands heretofore and immemorially called by the general name of A. M.; and whether any tithe in kind now is, or ever hath been, and where in particular, lawfully or rightfully due or payable for hay cut or mowed on such lands by the occupiers thereof respectively, when such occupiers are also the owners thereof, and whether from time to time, whereof the memory of man is not to the contrary, the several yearly rates or sums hereinbefore partly mentioned, or some and what sums have not been, and are nor now, lawfully and rightfully due and payable by the occupiers of such lands, being at the same time also owners thereof, at Easter, or what other time in each year, to or for the use of the rector for the time being of the said rectory, as modusses, or customary payments, for and in lieu and full satisfaction of and for the tithe of hay cut or mowed on the said lands by the occupiers thereof, being also owners thereof respectively, or on some and what other account; and whether such yearly rates or sums as aforesaid, or any and what other rates or sums, have not been from the same, or some and what period of time, paid by or on the behalf of the occupiers for the time being of such lands, being also at the same time owners thereof respectively, to or for the use of, and accepted by or on behalf of the rector for the time being of the said rectory and parish, at Easter in every year, or any and what other time, for and in lieu and full recompense and satisfaction of and for the tithe of hay cut or mowed on such lands as aforesaid, by the occupiers thereof respectively, being also at such times respectively owners of such lands; and whether any tithe in kind, or any and what recompense or satisfaction than the said yearly

yearly rates have or hath, at any time or times, and when in particular, been delivered or made, by or on behalf of any and what occupier of any and what part or parts of such lands, such occupier being at the same time owner thereof, to or for the use of any and what former rector of the said rectory, for or in respect of the tithe of hay cut or mowed on or from off any of such lands as aforesaid, by any such occupier or occupiers, being at such time or times owner or owners of such lands; and whether such yearly lord's rents as aforesaid, or some and which of them are not, and has not been from time to time immemorially payable for such parts of such lands respectively as aforesaid, or some and which of them, and whether from time, whereof the memory of man is not to the contrary, or for some and what time in particular the several yearly sums hereinbefore in that behalf mentioned, or some other and what yearly sums have not been, and are not now, respectively and rightfully due and payable at Easter, or what other time in each year, by the occupiers for the times being of land within the said parish, to or for the rector of the same parish, as modusses, for and in lieu of and full recompense and satisfaction of and for the several other titheable matters and things hereinbefore in that behalf mentioned, or some and which of them; and whether such last mentioned yearly sums, or some and which of them, have not been from time to time aforesaid, or from some and what time, paid by your Orators, or some or one and which of them, to or for the use of and accepted by or on behalf of the rector of the said rectory, as modusses, for and in lieu and full satisfaction of and for the several and respective titheable matters and things last before mentioned; and whether any tithe in kind, or any other and what recompense or satisfaction have or hath, at any time, and when within the time aforesaid, been delivered, paid, or made, by or on behalf of any, and what owner or occupier of any such and what lands within the said parish of A., to or for the use of any and what rector of the said parish, or any other person, for or in respect of such titheable matters and things as aforesaid, and whether the aforesaid several modusses, or some and which of them, were or is not well known to have been paid and received within the said parish, by the respective parishioners thereof, or some and which of them, and whether the late I. G. was not the rector of the said parish immediately preceding the said Defendant, and whether or not he, or some and which of his predecessors, did not keep several, or some or one and what books or book of account, wherein they respectively entered, or caused to be entered, the several modusses aforesaid, or some and which of them, as received by them respectively, in lieu of the tithes of the several matters and things aforesaid, or some or one and which of them; and whether such books of account, or some and what books or book, respecting the matters aforesaid, or some and which of them, containing some and what entries relating thereto, or some and which of them are not, or were, or was not lately in the custody or power of the said Defendant, or some and what other person or persons for his use, or on his behalf, or where the same now are; and whether he the said Defendant doth not withhold, or cause the same to be withheld from your Orators, and whether your Orators, or some or one and which of them have, or hath not been at all times ready and willing, and have or hath

hath not offered to pay to him the said Defendant, the said several modusses or ancient payments hereinbefore mentioned, in lieu and satisfaction of the several titheable matters and things aforesaid, and whether he the said Defendant doth not refuse to accept the same, and doth not insist upon your Orators paying the tithes of the several matters aforesaid in kind, and doth not for that purpose make use of the several pretences hereinbefore for that purpose mentioned, or some and what other pretences or pretence to justify him in such refusal.

Prayer.

And that the said Defendant may produce and leave in the hands of his clerk in Court, all such accounts, books, and other papers, as relate to the tithes of the said parish of A., which were heretofore in the possession or power of the said I. G. the late rector of the said parish, and which have since come into the hands or possession or power of him the said Defendant, with liberty for your Orators, their clerk in Court, or agent, or solicitor, to make copies thereof, or extracts therefrom, as they shall be advised, at your Orator's expense; and that the said Defendants may answer the premises; and that the said several modusses may be established by the decree of this honorable Court, against the said M. M. rector of the said parish, and his successors, and all proper and necessary directions given for that purpose. And for further relief, &c.

W. A.

*Bill by a Lessee of great and small Tithes for an Account.
Pretence that Land is discharged.*

Humbly complaining, shew unto your Honors, your Orators, J. R., late of, &c. but now of, &c. and W. H., of, &c. debtors and accountants, &c. that the deans and canons of _____ of _____, with his castle of _____, are and for a great length of time past, have been seized, to them and their successors, of the impropriate rectory and parsonage of D. in the county of B., and the tithes, both great and small, yearly arising, growing, renewing, or increasing, within the said parish of D. or the titheable places thereof; and being so seized the said dean and canons, by indenture of lease under their common seal, bearing date, &c., and made between them the said dean and canons of the one part, and Plaintiff J. R. of the other part. For the considerations therein mentioned, demised, amongst other things, unto Plaintiff J. R., his executors, administrators, and assigns, the rectory and parsonage of D., with all, &c. And your, &c. that Plaintiff J. R. being possessed of the said lease, did, by indenture of lease, bearing date, &c., made between him of the one part, W. H. of the other part, demise the said rectory and parsonage of D., with all the appurtenances, as held by him under his said lease (except as therein excepted) to Plaintiff W. H., his executors, administrators, and assigns, for the term, and subject to the rents and covenants therein mentioned, as by, &c. And your, &c. that Plaintiff J. R. under and by virtue of the said indenture of lease to him
and

and Plaintiff W. H., under and by virtue of the said derivative indenture of lease, respectively became, and Plaintiff W. H. now is entitled to all tithes, both great and small, arising, growing, renewing, or increasing, within the said parish of D., or the titheable places thereof; and Plaintiff J. R., in the year , and Plaintiff W. H., in the years and , accordingly received all the said tithes, or some compensation in lieu thereof, except as after mentioned. And your, &c. That R. S. the elder, and R. S. the younger, both of D. aforesaid, farmers, the Defendants hereinafter named, in and during the years , jointly held and occupied a certain mead or parcel of land, containing, in the whole, acres of land, or thereabouts, called or known, &c. or some such name or names, situate within the said parish of D. or the titheable places thereof, which parcel or quantity of land was formerly meadow land only, but for several years past hath been partly meadow land, and partly arable land; and the said R. S. the elder, and R. S. the younger, in the said three years, reaped, cut, and mowed, and had and took on and from the said parcel or quantity of land, divers quantities of wheat, barley, oats, and other corn or grain, and considerable quantities of hay, all which they took and carried away and converted to their own use, without setting out the tithes thereof for Plaintiffs respectively, or making them respectively any satisfaction for the same. And your, &c. that the tithes of the said titheable matters and things were of considerable value in each of the said years; and the said R. S. the elder, and R. S. the younger, having subtracted the same as aforesaid, Plaintiffs have, &c. applied and requested them to render Plaintiffs respectively an account of the same, and make them respectively a satisfaction for the value thereof. And Plaintiffs well hoped, &c. Pretend that Plaintiffs, as lessees as aforesaid respectively, were not, and Plaintiff W. H. is not entitled to the tithes of the said several titheable matters and things aforesaid; and that no tithes whatsoever were due and payable to Plaintiff J. R. in the said year , as lessee as aforesaid.

Inquiry.

And that the said Defendants may discover and set forth in manner aforesaid, whether the said parcel or quantity of land is and has immemorially been by any lawful ways or means exempted, or discharged, or acquitted of or from tithes of corn, grain, and hay, and of all other titheable matters and things arising thereon, or any and which of them, or of or from the payment of such tithes, or any and which of them; and that they may discover and set forth when and by what means, or in what manner, and how long since the same became and has been so exempt, or discharged, or acquitted, and how they make out such exemption, or discharge, or acquittal. And that none were in the said years and , or are due and payable to Plaintiff W. H. as lessee as aforesaid, in respect of the said parcel or quantity of land, or any part thereof, by reason that the said parcel or quantity of land is and has immemorially been by some lawful ways and means exempted, or discharged, or acquitted, of or from tithes of corn, grain, and hay, and of all titheable matters and things arising thereon, or of or from the payment of such tithes, but the said Defendants refuse to discover whence or in what manner they derive or
make

make out such exemption, or discharge, or acquittal. *Charge contrary,* and that said tithes in kind of corn, grain, and hay, and of all other titheable matters and things arising upon, or taken from the said parcel or quantity of land, were from the making of the said first mentioned lease to the making of the said last mentioned lease, due and payable to Plaintiff J. R. as lessee as aforesaid, and have ever since the making of the said last mentioned lease been due and payable to Plaintiff W. H. as lessee as aforesaid; and that such tithes have always been due and payable to the said dean and canons, or those under whom they claim, or their lessees or farmers, and as evidence thereof Plaintiffs charge, that tithes in kind of some titheable matters and things, or some composition, or some satisfaction, for or in lieu of some such tithes in kind, have or hath been rendered or paid, in respect of the said parcel or quantity of land, by the said Defendants, or one of them, or some former occupier or occupiers of the said parcel or quantity of land, or some part thereof, to or for the use of the said dean and canons, or their lessees or farmers, or some or one of them; and that a composition for or in lieu of small tithes, has been paid by the said Defendants, or one of them, to Plaintiffs respectively, as lessees as aforesaid, or one of them, for their or his use, in respect of the said parcel or quantity of land; and the said Defendants well know the said several matters to be true.

Inquiry.

And that the said Defendants may respectively set forth a full, true, and particular account of all the wheat, barley, oats, and other grain and corn, and of all hay which they had growing and reaped, cut and mowed, and took out from the said parcel or quantity of land, in each of the said three years, and of the value thereof in each year, and of the tithes thereof. But yet they refuse to give Plaintiffs respectively any account of the tithes of corn, grain, and hay, had and taken by them in the said years, and the value thereof, or to make to Plaintiffs respectively any satisfaction for the value thereof. All which, &c. To the end, &c.

Prayer.

That an account may be taken, by and under the direction and decree of this honorable Court, of the tithes of the several titheable matters and things aforesaid, had and taken by them, the said Defendants, in the three years aforesaid, and of the single value thereof; and that the said Defendants may be decreed to pay unto Plaintiffs respectively what shall be coming to Plaintiffs respectively in the taking of such account, Plaintiffs hereby waiving all pains and penalties which have been incurred by the said Defendants, by means of their subtracting or not setting out the said tithes. And for further relief,

R. II.

Bill for establishing a Modus in lieu of Tithes, brought against the Tenants in Fee of an Improprate Rectory and their Assignees, and for a Discovery of Books in which Accounts of Payments of Tithes have been kept.

States, that Plaintiff now is, and, for several years last past, hath been seized in fee and possessed of a certain ancient farm and lands, commonly called H. C., situate, &c. now and from time whereof the memory of man is not to the contrary, consisting of, &c. and being together of the yearly value of £

That the said farm and lands were formerly the estate of A. B., and that some time in or about, &c. sold and conveyed the same to one T. S., some time since deceased, and from whom the same descended, and came to Plaintiff.

That the dean and chapter of the collegiate church of St. P. in W., are and they and their predecessors, deans and chapters of the said church, for many years last past have been seized in fee of the impropriate rectory of the parish of as aforesaid.

That from time whereof the memory of man is not to the contrary, there hath been paid and payable to the rectors or impropriators of the said parish, for the time being, the sum of £ at , yearly, by the occupier or occupiers, for the time being, for the said farm and lands, called H. C., as a modus, for or in lieu of, and in full satisfaction of all tithes and titheable matters yearly arising, growing, increasing, and renewing, upon or from the said ancient farm and lands, and every part thereof.

That the dean and chapter of the same church did demise or grant the said impropriate rectory, with its appurtenances, to T. F., of, &c. and G. P., and their heirs, for their lives, and the same impropriate rectory, with its appurtenances, hath ever since been and now is vested in the said T. F. and G. P.; and Plaintiff hoped that the said T. F. and G. P. would have acquiesced with and under such modus as aforesaid, and would have accepted for the same in future, in lieu and in satisfaction of and for all the great and small tithes arising upon or from the said estate or farm. But now, &c. the said dean and chapter, &c. combining, &c. give out and insist that there is not any such modus or customary payment as £ , or any modus or customary payment, payable in lieu of the great and small tithes of the said farm, called, &c. but that the same tithes are payable in kind, and that if the said sum hath been paid and received as a satisfaction for or in lieu of the same tithes, that the same hath been paid under some agreement for that purpose, made by and between the owner or occupier of the said estate, and the person or persons who were entitled to the tithes thereof, and as and by way of composition for the same.

Charge, that the said sum hath been paid from time, &c. as a modus for or in lieu of all the said tithes, and not as a temporary composition for the same, or upon or by virtue of any agreement which was made for that purpose within the memory of man; and that so it would appear in and by the said books and papers wherein the account of the tithes and customary payments paid in lieu of the great and small tithes, arising in the

the said parish of, &c. and particularly of the said customary payment which hath been made in lieu of the tithes arising on the said estate or farm, called, &c. have, for many years last past, been entered and kept, in case any of the leaves, or parts of the leaves of the same books or papers, have not been cut or torn out, or the items or entries therein have not been erased, obliterated, or altered, and which said books and papers now are, and for many years have been, or lately were, in the custody, possession, or power of the said dean and chapter, and the said T. F. and G. P., or some or one of them, or of some person or persons with their privity.

Charge, that the said dean and chapter, and the said T. F. and G. P. insist upon being paid after the rate of in the pound, according to the annual rent or value of the said estate, or some other sum more than the amount of the said modus or customary payment for the same, for the year ending at last; and threatens or intends to commence or institute and prosecute some suit or suits in this or some other Court of judicature, to compel Plaintiff to comply with such demands; and they the said dean and chapter give out and insist that Plaintiff for the future shall pay the great and small tithes arising on his said estate in kind, or else shall comply with and pay them for the same tithes after the rate of in the pound, according to the full improved annual rent or value of the said estate, or some other annual sum more than the amount of the said modus or customary payment for the same, and threatens or intends to commence and prosecute some suit or suits against Plaintiff to compel him to comply with what they do insist upon in case of his refusal so to do. To the end, &c. And whether they the said dean and chapter and the said T. F. and G. P., or some, or one, and which of them respectively, or any other and what person or persons at some and what time have not, and when last had, in their, or some, or one, and which of their possession, custody, or power, some and how many and what books or book, papers or paper is, wherein the accounts of the money received and paid for the great and small tithes of all the titheable matters arising in the said parish of were and for how long time, and from and to what time, and when entered; and that the said Defendants may set forth all entries in such books or book, papers or paper, respecting the said tithes, or may leave the said books, &c. in the hands of their clerk in Court, and that Plaintiff, or his clerk in Court, or solicitor, may inspect and look at all the said books and papers, and every part thereof, and whether any and how many in the whole, and how many obliterations, erasures, and alterations, have been made in the said books and papers, and every of them, and particularly as to the sums therein entered or mentioned to be paid for the said last-mentioned tithes, and every of such sums, and by whom, and when and why, and with what view or design, or for what end and purpose such obliterations, and every of them, were and was so made, and of whose hands or hand writing such obliterations, and every of them, are and is, and what were and are the items and entries in the said books and papers, and every of them, before the items and entries, and each and every of them were and was so obliterated, erased, or altered, and how many and what leaf or leaves of the said books and papers, or part or parts of leaf or leaves of the said books and papers, have or hath been cut, or appear to have been cut,

or

or torn out, of or from the said books and papers, and each and every of them, and by whom, and when and why, and with what view or design, and for what end or purpose the same leaf or leaves, or part or parts of the said leaf or leaves so torn or cut out, was or were so torn or cut out, and what was or were the items or entries contained in such last-mentioned leaf or leaves, or part or parts of the said leaf or leaves, and the purport and substance thereof, and of every part thereof, before the said leaf or leaves was or were so cut or torn out. And whether, &c.

Prayer.

And that the said modus or customary payment of £ yearly in lieu of the great or small tithes of all the titheable matters arising yearly upon the said estate or farm, called, &c. may be established by the decree of this honorable Court; and that the said T. F. and G. P. may be directed to accept and take of Plaintiff the said sum of £ in lieu and satisfaction of and for the great and small tithes of all the titheable matters which did arise on the said estate, in or for the year ending at

SECT. VI.—BILLS FOR SHIP ASSURANCE.

Bill by Underwriters, for a Fraud practised upon them in representation of the Voyage, the Policy was from to , and the Assured brought an Action for a total Loss on that Voyage, when in fact the Ship's destined Voyage was to , where she arrived, and was sold with her Cargo.

States that W. W., of, &c. alone or jointly with some other persons, was or were or pretended to be before and at the time of the making the insurance after-mentioned owners of a certain merchant ship or vessel called, the and they or one of them, particularly the said W. W. or I. B. and T. G. of the city of , insurance brokers, and copartners, as agents for and on the behalf of the owners or owner of the said ship, on or about, &c. caused a policy of insurance to be opened at the city of on the said ship and her cargo, against the danger of the sea and capture of any foreign enemy, on a voyage to be by the said ship from the port of to and which voyage it was upon such occasion pretended that the said ship was immediately to make, and such insurance was accordingly effected at the city of , on or about, &c. and amongst other persons who underwrote or subscribed the said policy, your Orators respectively underwrote the same for the sum of £ each, at or after the premium of guineas, per cent, to return 5 per cent. for having departed with the West India convoy, if arrived, *i. e.* to Plaintiff I. R. the respective sums of £ each upon the said ship, which was valued in the said policy at £ , and the rest of Plaintiffs the like sum of £ upon the cargo on board the said ship, as in and by, &c.

That notwithstanding the representation made to Plaintiffs at the time of making the aforesaid insurance to the port of the said ship's destination, the voyage really intended to be made by her was not from the port of , as mentioned and expressed in the said policy, but from the port of to , or some other port in , or to some other different port or place than . And Plaintiffs having been deceived and imposed upon by such untrue representations of the said ship's intended voyage, the said insurance was fraudulent, and therefore the said policy was null and void.

That the said ship afterwards sailed from the port of with some other ships which were to proceed under convoy for , but the said ship soon after quitted the said fleet and convoy, and deviated from the regular course or track of such a voyage, and proceeded to some other port or place, not specified or mentioned in the said policy of insurance, particularly to the port of or some other port or place in where the said ship and her cargo was sold for a large sum of money in the whole, and which was afterwards received by the said W. W. and the other joint owners of the ship, or some or one of them.

That Plaintiffs well hoped, under the circumstances aforesaid, they should

should not have been called upon for the payment of any sums of money whatsoever, on account of their having subscribed or underwrote the aforesaid policy of insurance.

But now, &c. the said confederates at some times pretend that the insurance was not made fraudulently or unfairly, and that Plaintiffs were not in any manner imposed upon therein, and that the voyage actually intended to be made by the ship ; was the voyage particularly mentioned and specified in the said policy, viz. from the port of to , and that she never made any deviation therefrom. And they also at some times pretend that the said ship was lost or foundered at sea in the regular course or track of the said voyage. And at other times they give out, that the said ship was in course of her voyage captured by the enemy, and afterwards condemned as lawful prize, and that for some or one of such reasons, Plaintiffs and the several other underwriters on said policy became liable to pay the several sums insured or underwrote by them respectively on the aforesaid policy. *Charge contrary.* And that Plaintiffs were deceived and imposed upon in manner aforesaid, respecting the place or port of the said ship's destination, for that the said ship was at the time and upon the occasions aforesaid destined or intended for a voyage to or some other port in , or some other port or place in . And Plaintiffs charge that said ship in the course of said pretended voyage, separated from the rest of the ships or fleet, and made a deviation, and proceeded or sailed for the port of , or some other port or place in , or to some other port or place different from the port of destination mentioned in the said policy; where the captain or some other persons or person on board, sold and disposed of said ship and cargo as herein before is mentioned, and that divers remittances were afterwards made to on account of such sale, or the produce thereof, to the said confederates the owners or some or one of them, and the said ship and cargo were so sold and disposed of, such fraudulent insurance as aforesaid having been previously made thereon, pursuant to, and in consequence of some plan or scheme, concerted or contrived between the said confederates, or some or one of them, and the said , the captain, or to which they, some or one of them were or was privy, and that it was never meant, intended, or understood by and between the said confederates, or any of them, that said ship should perform the voyage specified or mentioned in the aforesaid policy of insurance, or proceed to . And Plaintiffs moreover charge, that said ship was not lost, captured or taken by the enemy, or however, not in the regular course or track of a voyage from to as mentioned in the said policy of insurance. And as evidence thereof, Plaintiffs charge, that the said captain or any other person never made any pretext of the loss or capture of the said ship as is usual or customary in such cases, and which would have been made if the said ship had actually been lost or captured, nor was the said ship ever condemned, or any sentence of condemnation passed upon her as a lawful prize. And as a further evidence of the aforesaid deception and imposition, Plaintiffs charge, that the said confederates (the insurance brokers) or some persons by their orders or directions, or with their privy or consent, some time in or about the month of , in the year of , wrote and sent a letter to their agent or correspondent at , employed by them to effect

effect the aforesaid insurance, directing him to apply to Plaintiffs or some other of the underwriters on the said policy, and to offer to cancel the said policy upon the repayment of the premiums; and such a proposition and offer was also made by the direction or with the knowledge of the said confederates, (the owners) and in consequence of their knowledge, conviction, and belief that the said insurance was fraudulently and unfairly made on the part of the said confederates (the owners), and that the underwriters on said policy were deceived or imposed upon respecting the port of her destination, and that the said ship was not actually lost or captured, and that for such or some other reasons the said policy was null and void. And said confederates (the owners) of said ship, had no just claim or demand upon the underwriters in respect of the sums insured or underwrote thereon. And Plaintiffs also charge, that divers letters or notes have been written and sent to, or received by, or passed between the said confederates, or some or one of them and their correspondents or agents at _____, or the persons or person employed by them the said confederates, or some or one of them in or about the making the aforesaid insurance; and the said _____, the captain of the said ship, or some or one of them, relating to or in some manner concerning the several matters and things herein before mentioned and inquired after, particularly the making of the aforesaid insurance, and the fraud or deception practised or intended to be practised upon Plaintiffs and the underwriters of said policy, and which said letters or notes, or some copies, abstracts, or extracts thereof, or of some or one of them, together with divers other papers, memorandums, or other writings relating to the matters aforesaid, are now or late were in the custody, possession or power of them, said confederates, or some or one of them. And Plaintiffs also charge, that the truth of the several matters and things herein before charged and set forth, and particularly, that Plaintiffs were deceived or imposed upon in the making the aforesaid insurance, and that the said ship was not lost or captured: and that the said confederates, the owners of the said ship, have no just or fair demand upon Plaintiffs by virtue of or under the aforesaid policy, would appear in and by the said letters and papers, in case the said confederates would produce the same; but which they refuse to do, although they have been frequently applied unto for that purpose, and under such or the like pretences as aforesaid, or some others equally unjust or unreasonable, the said confederates insist on the contrary. And said confederate W. W. hath also lately commenced separate actions at law against Plaintiffs in his Majesty's Court of King's Bench, at W. to recover the sums respectively underwrote by them on the said policy, and he threatens to proceed to judgment and execution thereon, well knowing that Plaintiffs are not able to make a good defence at law in the said actions, with a full disclosure and discovery of the several matters aforesaid, and without the benefit of the testimony of their witnesses, who reside at _____ and _____, and other parts of _____, and also in other parts and places abroad, and who could prove the truth of the several matters and things herein before charged and inquired after. And confederates refuse to discover to Plaintiffs, the names or places of abode of the other persons whom they at some times alledge to be joint owners with them of the said ship. All which, &c. To the end therefore, &c. and more especially that they may answer all
and

and singular, the matters and things aforesaid as fully, &c. (save and except, that Plaintiffs do not require, but hereby waive any answer from Defendants to any of the facts and charges herein before contained,) which might prove or discover, that they carried on any trade or commerce with the revolted colonies in , or had any unlawful intercourse or communion with any persons residing therein, and more particularly that they may in manner aforesaid answer and set forth whether, &c.

Prayer.

And that Plaintiffs may have a full disclosure and discovery of the several matters and things aforesaid. An injunction against W. W. from proceeding in his actions already commenced, and that he and all the other Defendants may in like manner be restrained from commencing or prosecuting any other actions or action, or in any other manner proceeding at law against Plaintiffs, or any of them, touching the several matters and things aforesaid. And that Plaintiffs may have one or more commission or commissions issuing out of, and under the seal of this honorable Court, for the examination of their witnesses at and , and other parts of or any other parts or places abroad as there may be occasion. And that Plaintiffs may have their testimony. May it please, &c.

J. L.

Bill by Underwriters against Insurers and their Agents.

Humbly complaining, &c., your Orators, &c., all of , merchants and underwriters, that E. B. D. N. and I. T. of the city of , merchants, trading under the stile and firm of E. B. and Co., three of the Defendants hereinafter named, in or about the month of , were or pretended to be interested as the agents of I. E. then residing at the , the other Defendant hereto, in a certain ship or vessel called the , of which one R. C. was the master, which ship was then alledged to be at the aforesaid. And your, &c. that in the said month of , the said Defendants, E. B. D. N. and I. T. under the name and stile of E. B. and Co. caused a policy of insurance to be opened in the said city of , in the usual form, as well in their own names as for and in the name or names of all and every other person and persons to whom the same did, might, or should appertain in part, or in all, for assuring the said ship called the , at the premium of 10 guineas per cent. lost or not lost, at and from the to the , and at and from thence to , with liberty to touch and trade, barter and exchange the property at the aforesaid places, or at any ports in the island of , and to touch at any ports of the in her return, and from thence to in the . And it was declared, that the said ship for so much as concerned the assured and assurers was valued at £ . And your, &c. that your Orators by themselves and their agents, severally underwrote the said policy for the respective sums of £ each, and your Orator, the said by I. R. his agent in that behalf, underwrote the same for the sum of £ . And your, &c. that the said E. B. D. N. and I. T. in or about

the month of _____, were or pretended to be also interested as the agents of the said I. E. in a certain other ship or vessel called the _____, of which one W. was then master, and which ship was also alleged to be at the _____ aforesaid. And your Orators shew, that in the said month of _____, the said E. B. D. N. and I. T. caused another policy of insurance to be opened in the said city of _____ in the usual form, for assuring the ship or vessel called the _____, at a premium of 12 guineas per cent. lost or not lost, at and from the _____ to _____, and at and from thence to _____ or any port or ports in the island of _____, with liberty to trade there, and on her return to touch at any port or ports of the _____, and at and from thence to _____ as aforesaid for orders. And it was declared, that the said ship by agreement should be valued at £ _____. And your Orators shew, that your Orators by themselves or their agents, severally underwrote the said policy for the respective sums of £ _____ each, and your Orator, by I. V. his agent, underwrote the same for the sum of £ _____, as in and by the said policies when produced to this honorable Court will more fully and at large appear. And your, &c. that the said Defendants alledge, that the said ship called the _____, sailed from the _____ aforesaid on or about the _____ day of _____ on her said voyage, in the said writing or policy of insurance mentioned, and that the said ship hath never been heard of since she sailed upon the said voyage, and that the said ship or vessel, whilst sailing and proceeding on her said voyage, in the said writing or policy of insurance mentioned, and before the completion thereof, must have been lost by and through the mere perils and dangers of the seas, and by strong and tempestuous weather. And the said Defendants E. B. D. N. and I. T. have, as the agents of the said I. E. upon pretence of such allegation, lately demanded from your Orators respectively, the sums severally underwritten by them on the aforesaid policy. And your, &c. that the said Defendants also alledge, that the said ship called the _____ sailed from the _____ in the month of _____, upon her said voyage in the said writing or policy of assurance mentioned, and that the said ship touched at some place on the coast of _____, and went from thence to _____, and on the _____ day of _____, sailed from _____ on her return to the _____; and afterwards, and whilst the said ship was proceeding on her said voyage, she was, by and through the mere perils and dangers of the seas, and by stormy and tempestuous weather, so greatly damaged and injured, that on or about the _____ day of the same month of _____ she was compelled, for the preservation of the said ship, to put into some port in the _____ of _____, and there to undergo very heavy and expensive repairs to the amount of the sums insured as aforesaid upon the said ship. And the said Defendants E. B. D. N. and I. T. have, as such agents as aforesaid, lately demanded from your Orators respectively, the sums severally underwritten by them on the said last mentioned policy. And your, &c. that upon enquiring into the several matters aforesaid, your Orators have discovered that the said Defendant I. E. was a merchant or trader, residing at the _____, and for many years had been and was a domiciled subject of the _____ government there, and that the said A. E. acting as the _____ consul there, availed himself of his situation, to purchase at a low price many old worn-out and crazy vessels, and fitted out or pretended to fit the same out for different

different voyages, and well knowing that the said ships were not seaworthy, caused the same, and the cargoes thereof, to be insured in the city of , at high prices. And in particular, your Orators shew, that the said ships, the and were old vessels, and worn out, and were by no means in a fit state or condition to proceed on the said voyages, insured; and so it would appear, if the said Defendants would set forth, when and where the said ships were built, and when, and from whom, and at what prices the said ships were bought by the said I. E. and what repairs had been done to the said ships respectively, after he purchased them, and what monies had been expended, and what was the particular state of the repairs of the said ships at the time they are alleged to have sailed on their said voyages, and by whom the state of their repairs had been surveyed, before they sailed upon their said voyages, and what reports were thereupon made by the person who so surveyed. And your Orators shew, that if the said ship the did in fact sail from the , yet she did not sail

on the said voyage insured; and so it would appear from the entries made at the Custom House, or other proper office, at the

on her clearance out from the said port, if the said Defendants would set forth, or otherwise, such entries were false and colorable, and meant to disguise and conceal the true destination of the said ship; and the master of the said ship had instructions to pursue another and a different voyage, and did, in fact, deviate from the voyage insured; and so it would appear, if the said Defendant, I. E. would set forth all and every the instructions given to the master or captain of the said ship, on her sailing from the , and all and every the

letters and letter written to or received by the said I. E. with respect to the sailing and destination of the said ship. And your Orators shew, that although it is alleged that the said ship the has never been heard of since she sailed on her said voyage, yet the said Defendant, I. E. well knows where the master and seamen, who were on board the said ship, when she is alleged to have sailed on her said voyage, now are, or have been, since the alleged time of her sailing; but the said Defendant refuses to set forth the names of such master and seamen, or to make any discovery with respect to them, in order that your Orators may not have the means of proving the several matters aforesaid. And your Orators shew, that if in fact the said ship

did undergo such repairs as are alleged by the said Defendants, such repairs, or the greater part of them, were made necessary, not by any stress of weather which the said ship had met with on her said voyage, but by reason that she was not seaworthy at the time she sailed from as aforesaid. And your Orators shew, that it was not the intention of the said I. E. when the said ship sailed from , aforesaid, that she should

adhere to the voyage insured, and the said ship did, in fact, before she put into as aforesaid, in many respects deviate from the said voyage; and so it would appear if the said Defendant would set forth the instructions which were given to the master or captain of the said ship, and the particular trade in which the said ship was meant to be employed upon the said voyage. And your Orators shew, that the said

I. E. was an alien born, and was, at the time of the assurance of the said ships, and hath, ever since, continued to be, and now is, a domiciled subject of the persons exercising the powers of government at and that, at the time of the loss of the said ship, if the same were lost, as is alledged, and at the time the said ship put into the as aforesaid, the persons exercising the powers of government at were, and now are, enemies of our king, and the said Defendant, I. E. is an enemy of our king, and adhering to the king's enemies. And your Orators shew, that after the said ship had been repaired at the said she sailed from thence, and was soon afterwards captured by a British vessel; and the said ship and cargo hath since been condemned by a Court of Admiralty of this country, as Dutch property; and although the said Defendant, I. E. not only made such assurances as aforesaid on the said ship, but also insured the sum of £ on the cargo of the said ship, yet the said I. E. hath submitted to such sentence, and hath in no manner appealed therefrom. And your Orators further shew, that the said defendants well know where the master and seamen of the said ships are now, or lately were to be found or heard of, and ought to set forth a list of the names of such master and seamen, and where they are respectively to be found. And your Orators shew, that they have, by themselves and their agents, repeatedly applied to the said Defendants, and have requested them to deliver up to your Orators the said policy of assurance to be cancelled. And your Orators well hoped, &c. But now, &c. And the said Defendants, E. B. D. N. and I. T. as the agent of the said other Defendants, I. E. have actually commenced actions at law in his Majesty's Court of King's Bench, against your Orators respectively, in order to recover from them the sums respectively underwritten by them as aforesaid. And the said Defendants threaten and intend to proceed to judgment and execution against your Orators respectively in the said actions, unless they are restrained therefrom by the order and injunction of this honorable Court. And your Orators charge, that the said Defendants have respectively written to each other divers letters concerning, or in some manner, or in some passages relating to the insurance of the said ships and cargoes, or to the intended voyage, or to their state and condition previous to the alledged commencement of the said voyages, or to the alledged loss of the said ship, or to the alledged damage sustained by the said ship, or in some manner, or in some passages relating to the matters aforesaid, or some of them; and the said Defendants, E. B. D. N. and I. T. have now, or have had in their custody or power, all and every the letters aforesaid, or copies thereof, and also divers protests, invoices, bills of lading, surveys, books, instruments, or writings, in some manner, and in some parts, concerning or relating to the said matters, or some of them. And your Orators charge, that it would appear, upon the production of the said letters, protests, invoices, bills of lading, surveys, books, papers, instruments, and writings, that the said policies of assurance ought to be delivered up to your Orators respectively, to be cancelled, and that the said Defendants, E. B. &c. ought not to maintain the aforesaid actions against them but the said Defendants refuse to produce the same.

same. ¹ And your Orators charge, that the said I. E. is now resident at the or elsewhere, out of the jurisdiction of this honorable Court. And your Orators charge, that they were unable to make a full defence to the demands of the said Defendants, in respect of the said policies of assurance, without the testimony of divers persons resident at and elsewhere, out of the jurisdiction of this honorable Court. All which, &c. To the end, &c.

SECT. VII.—PARTNERSHIP CONCERNS.

Bill by one Partner against another, for an Account of Partnership Transactions, Defendant having entered into various Speculations without Consent of the other, and then wanting to charge the Loss of such Speculations to the Firm.

Humbly complaining, sheweth unto your Lordship, your Orator, H. B. of, &c. carpenter and builder, that in or about the month of your Orator agreed with W. P. of, &c. carpenter and builder, the Defendant hereinafter named, to become a partner with him in his said trade and business, and thereupon a certain indenture of two parts, bearing date on or about, &c. was made and executed by and between your Orator and the said W. P. which, among other things, contained in the words and figures following (that is to say). Whereas, &c. And your, &c. that the said partnership trade and business was accordingly entered upon by the said W. P. and your Orator, pursuant to the provisions of the said indenture, and the same hath ever since continued, and now continues. And your Orator hath, from time to time, in all things duly conformed to the stipulations and agreements in the said indenture contained. And your, &c. that the said W. P. hath, since the commencement of the said partnership, been in the habit of receiving all large sums of money, and of drawing all checks and bills of exchange on the partnership account; but the said W. P. hath not duly and regularly entered all such transactions in the partnership books of account, but hath entered therein only a small part of such transactions, and hath kept your Orator in ignorance with regard thereto; and the said W. P. hath drawn many bills, and given many acceptances in the name of the partnership firm, not in respect of the partnership concerns, but for his own private purposes. And your, &c. that notwithstanding the provision in the said partnership articles, that the partnership accounts should be duly stated and made up on the day of _____ in each year, yet the said W. P. hath not yet stated and made up the partnership accounts to the _____ day of _____ although he hath been repeatedly applied to for that purpose. And your, &c. that after the formation of the said partnership, the said W. P. without consulting or communicating with your Orator, took in his own name certain ground and premises in _____, and also in _____, and also at _____, and the said W. P. built thereon, and the carpenter's work to such respective buildings was done by the partnership workmen, and from the partnership stock, but all other workmen were employed therein by the said W. P. without any communication with your Orator. And your Orator sheweth, that such several speculations having proved unprofitable, and a considerable loss having been incurred by them, the said W. P. hath lately pretended that all such speculations were entered into by him on the partnership account, and that your Orator is to bear his proportion of the loss. And your, &c. that in or about, &c. the said W. P. took a lease of premises in _____ in his own name, and the said W. P. proceeded to build a house thereon, and represented to your Orator that he was building it for a Mr. R. and the _____ the

the carpenter's work, which was done, was by desire of the said W. P. at first entered in the partnership books to Mr. R.'s account; but the said W. P. afterwards informed your Orator, that he was to build the house on his own account, and the carpenters' work was from thence considered as the private debt of the said W. P. And your Orator sheweth, that the expense of building the said house, including the said carpenters' work, amounted to £ , and that the said W. P. afterwards sold the said house for £ only, and then insisted that it was a speculation on the partnership account, and that your Orator should bear his proportion of the loss. And your, &c. that the said W. P. in the beginning of the year , applied to the father of your Orator for a loan of money, alleging that the trade required more, and that your Orator had not a sufficient capital in the trade. And your Orator sheweth, that your Orator's father, upon that occasion, referred to your Orator, and being informed of the reasons which your Orator had to complain of the conduct of the said W. P. refused to advance any further sum of money, and thereupon differences and disputes arising between the said W. P. and your Orator, the said W. P. proposed terms for the dissolution of the partnership, to which your Orator acceded; but the said W. P. afterwards changed his terms, and your Orator, not being able to come to any agreement in that behalf with the said W. P. gave notice to the said W. P. that all treaty for a dissolution was at an end. And your, &c. that your Orator afterwards continued to give his attention to the partnership business as usual, although he was, upon many occasions, abused and insulted by the said W. P. And your Orator sheweth, that on the day of last, your Orator was at the partnership counting-house, when a message came from a Mr. , requesting Messrs. P. and B. to send a man to his house, to do some carpentering jobs, and your Orator thereupon directed one of their men to go accordingly; but the said W. P. overhearing what passed, desired their foreman P. not to let the man go; and your Orator then inquiring from the said W. P. what he meant by such conduct, the said W. P. answered, that he did not choose the man should go, and that your Orator had better go about his business, and not come there, and that none of the men should do any thing he ordered them to do; and the said W. P. added some terms of opprobrium and abuse of your Orator; and the said W. P. then ordered C. their clerk, to keep the books himself, and to lock up the safe, in order that your Orator might not have access to them. And your Orator having a pass key to the lock of the safe door, and to other locks on the partnership premises, the said W. P. caused the locks to be changed. And your, &c. that being compelled, by this conduct, on the part of the said W. P. to absent himself from the partnership business, your Orator forthwith took other premises, in , in the name of the partnership, for the purpose of carrying on business there, on the joint account of the said W. P. and himself, pursuant to the aforesaid articles of partnership; but your Orator, at the same time, considering it to be desirable that a dissolution of the partnership should be effected, if it could be done upon fair and reasonable terms, the solicitors of your Orator, at his request, on or about, &c. wrote and sent a letter to the said W. P. in the words and figures, or to the purport and effect following; that is to say,—Sir, "In consequence," &c. And your, &c. that the said W. P. hath taken no notice of the said letter, nor hath since,

in any manner, communicated with your Orator, and your Orator hath, from thence, continued to carry on business in the partnership name, and on the partnership account, in the said new premises in but hath at all times been, and is now willing and desirous to attend the partnership business at the former premises, if requested or permitted so to do by the said W. P. And your Orator humbly insists, that the said W. P. ought to come to an account of the partnership dealings and transactions from the commencement thereof, and that the said W. P. ought to be restrained by the injunction of this honorable Court, from receiving and collecting the partnership debts and monies due, and to accrue due; and that some proper person ought to be appointed by this honorable Court to receive and collect the same; and that proper directions ought to be given by this honorable Court, for the conduct and management of the said partnership business in future, for the joint and equal benefit of the said W. P. and your Orator. To the end, &c.

Prayer.

And that the said Defendant may answer the premises, and that an account may be taken of all and every the said copartnership dealings and transactions, from the time of the commencement thereof; and also an account of the monies received and paid by your Orator and the said Defendant respectively in regard thereto, your Orator being ready and willing, and hereby offering to account for the partnership dealings and transactions which have been carried on by your Orator in the premises in , and that the said Defendant may be decreed to pay to your Orator what upon the taking of the said accounts shall appear to be due to him, and that in the mean time the said Defendant W. P. may be restrained by the order and injunction of this honorable Court from collecting or receiving any partnership debts or other monies, and that some proper person may be appointed to collect and receive the same; and that proper directions may be given for the conduct and management of the said partnership business in future, for the joint and equal benefit of your Orator and the said W. P. And further relief.

Bill by Copartners against acting Partner, who had been arrested and imprisoned for Debt, for a Dissolution and Account, and Injunction to restrain him from collecting Monies.

Humbly complaining, &c. that by articles of agreement bearing date, &c. and made and executed by and between your Orators of the first part, G. G. of the second part, and I. G. the Defendant hereinafter named, and H. G. his son, of the third part, after reciting, &c. And your, &c. that by a deed-poll indorsed on the said articles of agreement, under the hands and seals of, &c. bearing date, &c. after reciting, &c. And your, &c. that by another deed-poll indorsed on the said articles, under the hands and seals of, &c. bearing date, &c. as in and by, &c. And your, &c. that the said partnership business was entered upon and continued, in pursuance of the said articles of agreement, under the direction and attention of the said I. H. and H. G. until on or about, &c. and the said I. G. and H. G. were respectively provided with houses to
reside

reside in at the copartnership expense, and regularly took and received out of the copartnership effects the yearly sum of £ , in the proportions stipulated in the said articles; but the said business not having proved as beneficial as was expected, neither your Orators, nor the persons under whom they claim in the said concern, have ever had or taken any profits therefrom, but the whole of the monies which by the said recited indenture are stated to have been due to your Orators, now remain due to your Orators, according to their several rights and interests therein as aforesaid, together with all subsequent interest thereon. And your, &c. that on or about, &c. the said was arrested at the suit of , for a debt of £ , and hath in consequence of such arrest ever since been, and now is, a prisoner in the King's Bench prison. And your Orators shew, that by reason of such imprisonment of the said I. G. the said copartnership concern hath been, and is greatly discredited, and great loss hath been sustained in the said business by the absence of the said I. G. therefrom, and the said I. G. having no capital in the said concern, and assisting therein only by his personal attention, which by such his imprisonment hath been, and continues to be wholly lost, your Orators have made frequent applications to the said I. G. to withdraw from the said copartnership, and to come to a just and true account with your Orators for all and every the copartnership dealings and transactions, with which just and reasonable request your Orators, &c. But now, &c. And the said Defendant pretends that he hath a right to continue to share in the profits of the said joint concern, and hath even a right to draw therefrom in the first place the annual sum of £ , being his proportion of the said sum of £ , agreed to be paid to the said Defendants for their attention to, and management of the said business; whereas your Orators charge, that the said I. G. having only contributed to the said copartnership interest by his personal attendance upon their concern, hath by his inability to assist therein, lost and forfeited all right to continue to share in the profits, and in particular hath lost and forfeited all right to any proportion of the said annual sum of £ , which was allowed to the said Defendants in the proportions aforesaid, expressly for their management of, and attendance upon the said business. And your Orators charge, that the said Defendant I. G. hath, since his imprisonment, suffered the house in which he resided at the expense of the said copartnership, to become greatly dilapidated and out of repair, to the great injury of the said copartnership. And your Orators further charge, that the said H. G. refuses to join your Orators in this suit. All which, &c. To the end, &c.

Prayer.

And that the said Defendants may answer the premises. And that the said copartnership, as far as respects the said Defendant I. G. may be declared to be dissolved. And that accounts may be taken of all and every the said copartnership dealings and transactions, as far as relates to the said I. G. And that the said I. G. may be directed to pay to the said continuing copartners what, if any thing, shall upon such account appear to be due from him, your Orators being ready and willing, and hereby offering to pay to the said I. G. what, if any thing, shall appear to be due to him from the said joint

concern. And that the said Defendant T. G. may be directed to assign to your Orators and to the said H. G. his share and interest in and to the said copartnership estate and effects. And that the said I. G. may in the mean time be restrained by the order and injunction of this honorable Court, from disposing of any part of the said copartnership money, or from collecting or receiving any of the debts due and owing thereto. And for further relief, &c.

Bill for Dissolution of Partnership, and Injunction to restrain from collecting Debts.

Humbly complaining, sheweth unto your Lordship, your Orator P. C. of, &c. that in or about the month of _____, your Orator entered into an agreement with C. B. of, &c. and C. F. of, &c. the Defendants hereinafter named, to form a partnership with them in the business of auctioneers and appraisers, which agreement was reduced into writing, and signed by your Orators and the said Defendants, and was in the words and figures, or to the purport and effect following, that is to say, "Mr. C. being desirous," &c. &c. as in and by the said agreement, reference being thereunto had, will appear. And your, &c. that the said copartnership business was entered upon, and hath ever since continued to be carried on by your Orator and the said Defendants, in pursuance and under the aforesaid agreement, no articles or other instrument having ever been prepared and executed between them. And your, &c. that having much reason to be dissatisfied with the conduct of the said C. B. and being desirous therefore to dissolve the said partnership, your Orator, on or about the _____ day of _____, caused a notice in writing, signed by your Orator, to be delivered to the said C. B. and C. F. in the words and figures, or to the purport and effect following, that is to say, "In conformity," &c. &c. as in and by such written notice, now in the custody or power of the said Defendants, or one of them, when produced, will appear. And your Orator sheweth, that the said C. B. hath, from time to time since the commencement of the said partnership, applied to his own use, from the receipts and profits of the said business, very large sums of money, greatly exceeding the proportion thereof to which he was entitled, and in order to conceal the same, the said C. B. who hath the management of the said copartnership books, hath never once balanced the said books. And your Orator sheweth, that having in the beginning of the year _____ discovered that the said C. B. was greatly indebted to the said copartnership by reason of his application of the partnership monies to his own use, your Orator, in order to form some check upon the conduct of the said C. B. requested that he would pay all copartnership monies which he received into their bankers, and would draw for such sums as he had occasion for, but the said C. B. hath wholly disregarded such request, and hath continued to apply the partnership monies received by him to his own use, without paying the same into the bankers, and hath also taken to his own use monies received by the clerks, and hath by such means greatly increased his debt to the partnership, without affording to your Orator and the said C. F. any adequate means of ascertaining the true state of his accounts. And your Orator sheweth, that he hath by himself and his agents, from time to time ap-
plied

plied to the said C. B. and hath requested him to come to a full and fair account in respect of the said copartnership transactions, with which just and reasonable requests your Orator well hoped the said Defendant would have complied, as in justice and equity he ought to have done. But now, &c. absolutely refuses so to do. And the said C. B. at sometimes pretends, that he hath not received and applied to his own use more than his due proportion of the partnership profits, whereas your Orator charges the contrary thereof to be the truth, and so it would appear if the said Defendant would set forth a full and true account of all and every his receipts and payments in respect of the said partnership transactions, and of the partnership profits which have been made in each year since the commencement of the said partnership. And your Orator charges, that the said C. B. hath in fact received the sum of £ and upwards, beyond his due proportion of the partnership profits; and nevertheless is proceeding to collect in the partnership debts and monies, whereby the balance due from him will be increased, to the great loss and injury of your Orator and the said C. F. And your Orator charges, that the said C. B. ought therefore to be restrained by the order and injunction of this honorable Court from collecting and receiving any of the said partnership debts and monies. And your Orator charges, that the said C. F. refuses to join your Orator in this suit. To the end therefore, &c.

Prayer.

And that the said Defendants may answer the premises, and that that partnership may be declared void; and that an account may be taken of all and every the said copartnership dealings and transactions, from the time of the commencement thereof. And also an account of the monies received and paid by your Orator and the said Defendants respectively, in regard thereto. And that the said Defendants may be decreed to pay to your Orator what, if any thing, shall upon the taking of the said accounts appear to be due to him, your Orator being ready and willing, and hereby offering to pay to the said Defendants, or either of them, what, if any thing, shall upon the taking of the said accounts appear to be due to them from your Orator. And that in the mean time the said Defendant C. B. may be restrained by the order and injunction of this honorable Court, from collecting or receiving the partnership debts or other monies. And for further relief, &c. J. L.

*Pray Subpœna against C. F.
and Subpœna and Injunction
against C. B.*

*Bill for an Account of Partnership Dealings after Dis-
solution, and for a Receiver, &c.*

Humbly complaining, &c. that on or about the day of , your Orator and P. H. W. of, &c. the Defendant hereinafter named, entered into copartnership together as attorneys and solicitors, your Orator engaging to bring into the business the sum of £ , and being to receive one-third part or share of the profits; and the said P. H. W. engaging

to bring into the business the sum of £ , and being to receive two-third parts or shares of the said profits. And your, &c. that your Orator accordingly brought into the business the said sum of £ , and that the said copartnership was carried on and continued until the day of , when the same was dissolved by mutual consent, and the usual advertisement of such dissolution was inserted in the London Gazette. And your Orator sheweth, that the said copartnership business was carried on in a house in , which at the time of the dissolution of the said copartnership was held by the said Defendant and your Orator, under an agreement for a lease for years, from Lady-day , and that it was verbally agreed between the said Defendant and your Orator, that the said Defendant should take to himself the benefit of the said agreement, accounting to your Orator for his proportion of the value thereof, and in pursuance of such agreement, the said Defendant hath ever since continued, and now is, in possession of the said house. And your, &c. that no settlement of the said copartnership accounts hath ever been made between your Orator and the said Defendant, and that since the said dissolution your Orator hath repeatedly applied to the said Defendant to come to a final settlement with respect thereto. And your Orator well hoped, &c. but now, &c. refuses so to do. And your Orator charges, that the said Defendant hath possessed himself of the said copartnership books, and hath refused to permit your Orator to inspect the same. And the said Defendant hath also refused to render to your Orator any account of the copartnership monies received by him; and your Orator, since the said dissolution, hath paid the sum of £ , in respect of the copartnership debts. And your Orator charges, that upon a just and true settlement of the said accounts it would appear that a considerable balance is due from the said Defendant to your Orator in respect of their said copartnership dealings; but nevertheless the said Defendant is proceeding to collect in the said copartnership debts, and to apply the same to his own use, which the said Defendant is enabled to do by means of his possession of the books of account as aforesaid. And your Orator charges, that the said Defendant ought to be restrained by the injunction of this honorable Court from collecting in the said debts, and that some proper person ought to be appointed by this honorable Court for that purpose. All which, &c. To the end, &c.

Prayer.

And that an account may be taken of all and every the said late copartnership dealings and transactions, until the time of the expiration thereof, and that the said P. H. W. may be directed to pay to your Orator what, if any thing, shall upon such account appear to be due, your Orator being ready and willing, and hereby offering to pay to the said P. H. W. what, if any thing, shall appear to be due to him from the said joint concern. And that some proper and ostensible person may be appointed to receive and collect all monies that may be coming to the credit of the late copartnership. And that the said P. H. W. may in the mean time be restrained by the order and injunction of this honorable Court, from collecting or receiving any of the debts due and owing thereto. And for further relief, &c.

SECT. VIII.—BILLS UPON PROMISSORY NOTES.

Bill for an Account of Principal and Interest due on a Promissory Note. Plaintiff cannot sue at Law, Note being lost. A Pretence that Defendant means to avail himself of the Statute of Limitations. Charge thereto.

Humbly complaining, sheweth unto your Lordship, your Orator I. W. of, &c. that your Orator and D. P. late of, &c. but now of, &c. the Defendant hereinafter named, have for many years had transactions in business together, and your Orator sheweth, that in or about, &c. your Orator sold to the said Defendant horses and harness for the sum of £ , and on or about, &c. of the same month of , your Orator lent and advanced to the said Defendant the sum of £ , and thereupon the said Defendant gave to your Orator his promissory note, bearing date on or about, &c. for the sum of £ , payable, with interest, months after date. And your, &c. that the said D. P. hath not since paid, or in any manner satisfied the said promissory note and interest, or any part thereof, and the said sum of £ , together with interest thereon from the day of the date of the said note, now remains due and owing to your Orator. And your Orator sheweth, that he hath by himself and his agents repeatedly applied to the said Defendant for the payment of the said sum of £ , and interest, and your Orator well hoped, &c. But now, &c. hath refused so to do. And the said Defendant at some times pretends, that he hath fully paid and satisfied the said sum of £ and interest, but when, and how, and to whom he so paid and satisfied the same, the said Defendant refuses to discover. And at other times the said Defendant gives out, that he means to avail himself of the statute of limitations, in order to protect himself from the payment of the said debt, whereas your Orator charges, that although the said promissory note was given to your Orator more than years since, yet the said Defendant hath repeatedly within years admitted to many persons that the said sum of £ and interest remained due and owing to your Orator. And in particular, the said Defendant made such admission to Mr. S. one of the clerks of your Orator, about years since, in a conversation which the said Mr. S. had with the said Defendant, respecting a bill drawn by the said Defendant upon your Orator, and not accepted by your Orator. And your Orator further charges, that the sum of £ , being due to your Orator for principal and interest on the said promissory note, the solicitors of your Orator on or about, &c. wrote a letter to the said Defendant, in the words and figures, or to the purport and effect following, that is to say, &c. And your Orator further charges, that the sum of £ therein stated to be due to your Orator, referred to the principal and interest of the said sum of £ , for which the said note was given as aforesaid. And your Orator charges, that the said Defendant wrote an answer to the said letter, in the words and figures, or to the purport and effect following, that is to say, "Gentlemen," &c. And your Orator further charges, that your

your Orator long since lost the said promissory note, and is unable to produce the same at the trial of any action at law, or to deliver up the same to the said Defendant. And the said Defendant for that reason refuses to pay the same, or any part thereof. All which, &c. To the end, &c.

Prayer.

And that the said Defendant may answer the premises. And that an account may be taken of what is due to your Orator for principal and interest on the said promissory note, and that the said Defendant may be decreed to pay to your Orator what shall be found due upon such account. And for further relief.

J. L.

Pray Subpœna against D. P.

Bill to have delivered up to be cancelled certain Bills of Exchange, which they had delivered to A. to get discounted for them, but which he had negotiated without any Consideration to Plaintiffs.

Bill states, that Plaintiff T. G. in the month of , having occasion to raise a sum of money, did in that month apply to T. H. A. who acts as a broker in procuring money, to procure money for Plaintiff J. G. ; and the said T. H. A. agreed so to do, provided Plaintiff J. G. could prevail on some person of consequence and substance to join with Plaintiff J. G. in a security for payment thereof. And Plaintiff J. G. having named Plaintiff T. G. his brother, it was settled that Plaintiff T. G. should draw bills of exchange on Plaintiff J. G. for payment at future times of small sums of money, amounting in the whole to the sum of £ , for which Plaintiff J. G. had occasion, and the Plaintiff T. G. should accept such bills, and that Plaintiff J. G. should indorse such bills, and deliver the same to him the said T. H. A. and that he the said T. H. A. should immediately procure the same to be discounted, and pay to Plaintiff J. G. the money to be raised thereby.

That your Orator T. G. having agreed to such scheme for the accommodation of Plaintiff J. G. Plaintiff T. G. did, on or about the day of , without any consideration, sign several bills or drafts of exchange on Plaintiff J. G. for payment of small sums to the amount of £ in the whole, or thereabouts, to your Orator T. G.'s order at future times, and Plaintiff J. G. without any consideration, signed his acceptance thereof, and particularly one of such drafts or bills of exchange was in the words and figures, or to the effect following, that is to say, (*insert the bill*), as in and by the said bill, now in the custody of the Defendants hereinafter named, or one of them, relation being thereunto had, will appear.

That Plaintiff J. G. immediately afterwards, at the request of Plaintiff T. G. without any consideration, indorsed the name of Plaintiff T. G. on all such bills, and all such bills were immediately, or shortly afterwards, without any consideration in money or otherwise, delivered by Plaintiffs, or one of them, to the said T. H. A. for the purpose of his
procuring

procuring the same to be discounted, and raising thereon the money thereby made payable, after deducting the usual discount, bringing such money, after such deduction, to Plaintiff J. G. which said I. H. A. faithfully promised to do. And the said I. H. A. then signed a writing, whereby he acknowledged to have received the said bills respectively for such purpose, and promised to pay to Plaintiffs, or one of them, the money made payable thereby, or to return the said bills or drafts to Plaintiffs, or one of them, or to such or the like effect.

That the said I. H. A. or any other person hath never paid, to or for the use of Plaintiffs, or either of them, any money whatsoever, in respect of the aforesaid drafts or bills of exchange for payment of the sum of £ , although he hath promised frequently so to do, nor hath the said draft or bill been at any time returned or delivered to Plaintiffs, or either of them; and therefore Plaintiffs have, at several times, by themselves and their agents, applied unto the said I. H. A. to deliver up the said draft or bill, for payment of the said sum of £ . And it being alleged that the said draft or bill is now in the possession of J. T. Plaintiffs have, in like manner, made the like application to him: and Plaintiffs hoped that the one or the other of them would have complied with such request.

Pretends, that a full and valuable consideration was paid to Plaintiffs, or one of them, for the aforesaid draft or bill of exchange, by the said I. H. A. or some other person, or that Plaintiffs, or one of them, at the time of delivering the said draft or bill of exchange to him the said I. H. A. were or was justly indebted to him in some sum or sums of money; and that such draft or bill was delivered to him in or towards satisfaction of or for securing such debt; or that the money made payable thereby, or great part thereof, hath been paid to or for the use of Plaintiffs, or one of them.

Charge contrary. And so the said Defendants will, at other times, admit; but the said J. T. pretends, that the said draft or bill of exchange was delivered by the said I. H. A. to one W. S. G. and that the said W. G. delivered the same to one C. P. and that the said C. P. delivered the same to one J. D. and that the said J. D. delivered the same to him the said J. T. and that all or most of such several persons, by whom it was pretended that the said draft or bill of exchange hath been, from time to time, so delivered to others, had or received some good or valuable consideration for such delivery thereof, and for indorsing the said draft or bill of exchange, or that the same was so delivered in or towards the discharge of or for securing some just or real debt or debts, at such respective times owing from the person by whom the same was so delivered, had before, or at the time of receiving the same, any notice that Plaintiffs, or either of them, had not received any consideration for the same, or that the said I. H. A. had signed such receipt or undertaking as aforesaid for the same; and that therefore he the said J. P. is entitled to receive the said sum of £ from Plaintiffs, or some of them, by virtue of such draft or bill.

Charge, that if the said draft or bill hath been really delivered by and to all or any of the parties aforesaid, and indorsed by all or any, or either of them, all or most of such deliveries and indorsements were or was made fraudulently, and only colorable, and not *bonâ fide* for the true and real benefit of the parties to whom such deliveries and indorsements were re-

spectively

spectively made, but in trust for the deliverer or indorser for the said I. H. A. and with a view to give a better appearance of right to sue Plaintiffs, or one of them, on the said draft or bill ; and no consideration in money, or otherwise, or, however, not near a full and valuable consideration was ever really and *bonâ fide* given to or for the use of any such deliverers or indorsers of the said draft or bill of exchange, for or on account of the delivery or indorsement thereof ; nor was any money whatsoever, or at most only some very trifling sum, at any such time, really and actually due from either of the said persons to whom the said draft or bill hath been so indorsed or delivered, but all the said parties are accustomed to deal in transactions of such kind, and they, or most of them, have been long concerned together in dealings of such nature, and the person to whom the said draft or bill of exchange hath been, from time to time, indorsed or delivered, or some or one of such persons had before, or at the time when the same was so delivered to them respectively, some knowledge, notice, information, belief, or suspicion, that Plaintiffs, or either of them, had not received a full and valuable consideration, or any consideration for the said draft or bill, and that the said I. H. A. had signed such receipt and undertaking relating thereto as aforesaid ; and that no person to whom the said draft or bill had before been indorsed or delivered, had paid a valuable or any consideration for the same, and particularly the said I. T. had some such knowledge or belief, &c. before or at the time of the delivery of the said draft or bill of exchange unto him, or before or at the time of his paying the considerations, which, if any, he paid for the same, or some part thereof, and therefore humbly insists that the said I. T. is not entitled to recover any money from Plaintiffs, or either of them, under or by virtue of such draft or bill of exchange ; and Plaintiffs humbly insist, that if they, or either of them, shall be bound to pay any money, in respect of the said draft or bill of exchange, to the said I. T., or any other person, the said I. H. A. ought to repay the same to Plaintiffs, together with all Plaintiffs costs and charges relating thereto. But, nevertheless, under such, or the like pretences as aforesaid, or some other equally unjust and unreasonable, the said I. T. and also the said I. H. A. refuses to deliver up the same to Plaintiffs, or either of them ; and the said I. T. and I. H. A. or one of them, in the name of the said I. T. have or hath commenced an action at law against Plaintiff, J. G. as acceptor of the said draft or bill, for recovery of the said sum of £ , and they, or one of them, threaten to proceed to judgment and execution in such actions. [The prayer might be to some such effect as the following.] That if the Court should be of opinion that Plaintiffs, or either of them, ought to pay any money in respect of the draft or bill of exchange to the said I. T. or any person, the said I. H. A. may repay the same to Plaintiffs, together with all their costs and charges relating thereto. But if the Court should not think the said I. T. or any person to be entitled to any money from Plaintiffs, or either of them, in respect of the said draft or bill of exchange, it may be delivered up to Plaintiffs to be cancelled, with an injunction from proceeding on the said bill of exchange.

N. B. It might perhaps be advisable to charge a strong confederacy, and pray that the note might in the first instance be given up, leaving to I. T. only a remedy against I. H. A.

Bill

Bill by the Acceptor of an Accommodation Note against an Indorsee, with Notice to have Bill delivered up, and an Injunction.

That Plaintiff, having been, for some time before, and in the month of _____, acquainted with O. S. of, &c. the said O. S. together with T. T. of, &c. some time in or about the said month of, &c. applied unto Plaintiff, and represented to him that T. T. had a pressing occasion for money, and therefore they both desired Plaintiff to accept a draft or bill, to be drawn on Plaintiff by them, or one of them, for the payment of £ _____ at a future day, in order that he the said T. T. might pay away the same as money, or might raise money, by discounting the same; and they then promised and faithfully assured Plaintiff that they, or one of them, and particularly the said T. T. would take care to discharge the said sum of £ _____ before or when the same should become payable, and to procure such drafts to be delivered up, and to indemnify Plaintiff from all demands, costs, charges, and expenses, relating thereto, with which request Plaintiff, for some time, refused to comply, as Plaintiff was not then indebted unto the said O. S. and T. T. or either of them, nor had any acquaintance with the said T. T. But Plaintiff being strongly impressed and importuned by the said O. S. and T. T. and they having promised, that in case of his compliance, they or one of them would, by the time such sum of £ _____ would become payable, employ Plaintiff in so much business in the way of his trade, that his bill for such business would amount to more than such sum of £ _____, or to that effect, Plaintiff did at length, although with great reluctance, agree to comply with such request; and the said O. S. having wrote or signed a draft or bill in writing, bearing date, &c. directed to Plaintiff, and requiring Plaintiff, two months after the date thereof, to pay to his, the said O. S.'s order, £ _____, being, as therein mentioned and expressed, for value received in deals from him the said O. S. or to such or the like effect, Plaintiff did sign his acceptance of such draft or bill as a matter of favour to the said O. S. and T. T. or one of them, and for the service and accommodation of the said T. T. as aforesaid, and without any consideration whatsoever in money or otherwise; and although Plaintiff was not then indebted to them, or either of them, in any money whatsoever, nor was the value thereof, or of any part thereof, ever received by or for the use of Plaintiff in deals, or otherwise; and Plaintiff so accepted such draft or bill, under a firm reliance on the aforesaid promise, that they the said O. S. and T. T. or one of them, would pay the said sum of £ _____, and indemnify Plaintiff against all demands, costs, and charges, in relation thereto; and the said O. S. at or about the same time, indorsed such draft or bill, and the same was then taken away by the said T. T. in order for him to make use thereof, for or towards any of his then pressing occasions, as aforesaid; and the said T. T. and one R. S. who was, or is pretended to have been his partner at that time, or one of them, accordingly, either paid away the said draft or bill as money, or otherwise, raised and received money by discounting the same; and they, or the said O. S. or one of them, afterwards paid, or caused to be paid, the said sum of £ _____, when or soon after the same became due, in discharge of the

said

said draft or bill, in pursuance of the said promise or agreement of the said T. T. and O. S. and thereupon, or upon some other occasion, the said draft or bill was returned or delivered up to the said O. S. T. T. & R. S. or some, or one of them, and the same is now in their, or some, or one of their custody or power, and therefore they ought to deliver up the same to Plaintiff, to be cancelled; and Plaintiff hath, at several times, applied, &c. to the said O. S. T. T. and R. S. to deliver up the same. And Plaintiff well hoped, &c. But now, &c.

Pretend, that Plaintiff, at the time of accepting the said draft or bill, or at some time, really had or received from them, or some or one of them, some considerable sums or sum of money, or some large quantity of deals, or some goods to some considerable value, as or for, or on account of the consideration thereof, or otherwise; that Plaintiff was then indebted to them, or some or one of them, in money, to some considerable amount; and that Plaintiff accepted the said draft or bill on some such account, and not on such account as aforesaid.

Charge contrary, which Defendants will at times admit, but the said T. T. and R. S.

Pretend, that they, or one of them, paid some good or valuable consideration to the said O. S. for his indorsing the said bill or draft to them, or one of them, or that he was then justly indebted unto them, or one of them, in some considerable sum or sums of money; and that he indorsed and delivered over the same to them, or one of them, in discharge of or by way of security for such debt, or some part thereof, and that neither of them, the said T. T. or R. S. had, before or at the time of such indorsement or payment of the consideration for the same, any notice whatsoever that Plaintiff had not a full and valuable consideration for accepting the said draft or bill, and that the said draft or bill hath ever since remained in their or one of their custody or power, and therefore the said T. T. and R. S. insist that Plaintiff is liable to pay the said sum of £ unto them.

Charge contrary, and particularly that no money whatsoever was really and *bonâ fide* paid by or on account of them the said T. T. and R. S. or either of them, to or for the use of the said O. S. as or for, or on account of the said O. S.'s drawing or indorsing, or delivering the said bill or draft; nor was any money whatsoever then justly due from the said O. S. to the said T. T. and R. S. or either of them; or at least the said indorsement and delivery of the said draft or bill was not made in or towards the discharge of or for security of any such debt, nor on any other account, or for any other purpose than as aforesaid.

Charge, that the said T. T. and R. S. or one of them, before or at the time of the said O. S.'s indorsing or delivering the said bill or draft, or either of them, had notice, information, belief or suspicion, that Plaintiff had no consideration for accepting the same, but only accepted the same for such reason, and under such circumstances as aforesaid; and particularly, that the said T. T. was present at the time when the said draft or bill was drawn, and accepted as aforesaid, and was privy to the whole of the transaction; and therefore Plaintiff is advised, and humbly insists, that he ought not, in equity, to be subject to the payment of the said sum of £ , or any part thereof, but the said bill or draft ought to be delivered up as aforesaid. But, nevertheless, the said Defendants refuse to deliver

deliver up the same ; and they, or some or one of them, have or hath commenced an action at law against Plaintiff in his Majesty's Court of King's Bench, in the names of them the said T. T. and R. S. on Plaintiff's acceptance of the said draft or bill ; and Plaintiff not being able to make any defence in such action, they have obtained final judgment thereon for the said sum of £ , besides costs, or threaten so to do. And they threaten to take out execution on such judgment, although no money whatsoever is, in justice or equity due to them, or any or either of them, from Plaintiff. All which, &c. To the end, &c.

SECT. IX.—BILLS UPON MORTGAGE MATTERS.

Bill by Heir at Law for Redemption of Freehold Lands.

Humbly complaining, sheweth unto your Lordship, your Orator J. G. of, &c. that J. G. the elder, late of, &c. but now deceased, and E. his wife, now also deceased, the late father and mother of your Orator, were in right of the said E. seized in fee-simple of, or otherwise well entitled to, two freehold fields, &c. and your Orator sheweth that the said J. G. the elder, and E. his wife, in or about the year , made some conveyance and assignment of the said premises unto W. B. of, &c. the Defendant hereinafter named, by way of mortgage for securing the repayment of a certain sum of money, with interest, then advanced to the said J. G. by W. B. or by J. B. then of, &c. on the part of, and as the agent of the said W. B.; and your, &c. that the said W. B. upon or soon after the making of the said security, entered into the possession of the said mortgaged premises, or into the receipt of the rents and profits thereof, and hath ever since continued in such possession and receipt, and the said W. B., or the said J. B. on his behalf, also possessed himself of all the title deeds relating to the said premises; and your Orator further sheweth, that the said J. G. the elder, departed this life in or about the year , and that the said E. G. having survived her said husband, departed this life on or about, &c. intestate, and without having made, after the death of her said husband, any conveyance or disposition of such right and interest as she retained at his death in the said premises, leaving your Orator, her eldest son and heir at law, who thereupon became entitled to the equity of redemption of the said mortgaged premises; and your, &c. that the said W. B. from time to time made some small payments to the said J. G. in his life-time, and after his death to the said E. G., out of the rents and profits of the said premises; and the said W. B. applied the greater part of such rents and profits to his own use, and by means thereof the said W. B. hath been more than repaid the principal and interest due to him on the security of the said premises, and your Orator hath frequently applied to the said W. B. and requested him to come to an account for the rents and profits of the said premises, so received by him, and to pay over to your Orator what he should appear to have so received beyond the amount of the principal and interest due to him, and to deliver up the possession of the said mortgaged premises; and your Orator well hoped that the said Defendant would have complied, &c. To the end therefore, &c.

Prayer.

And that the said Defendant may answer the premises, and that an account may be taken of what, if any thing, is due to the said Defendant for principal and interest on the said mortgage, and that an account may also be taken of the rents and profits of the said mortgaged

mortgaged premises, which have been possessed or received by the said Defendant, or by any other person or persons by his order or for his use, or which, without his wilful default or neglect, might have been received; and that if it shall appear that the said rents and profits have been more than sufficient to satisfy the principal and interest of the said mortgage, then that the residue thereof may be paid over to your Orator; and that your Orator may be permitted to redeem the said premises, your Orator being ready and willing, and hereby offering to pay what, if any thing, shall appear to remain due in respect of the principal and interest on the said mortgage; and that the said Defendant may be decreed to deliver up possession of the said mortgaged premises to your Orator, or to such person as he shall direct, free from all incumbrances made by him, or any person claiming under him, and may deliver over to your Orator all deeds or writings in his custody or power relating to the said mortgaged premises. And for further relief.

Pray Subpœna against W. B.

J. L.

N. B. This bill was filed by the heir at law conceiving, that some undue influence had been resorted to by the Defendant, in the possession of the estate, and therefore the object of the bill is to discover the Defendant's title, and it is framed in the shape of a bill of redemption, as for a mere bill of discovery it would have been liable to a demurrer; and to avoid that fate, the interrogating part must be confined to the mere facts stated, and not ask for the Defendant's title.

Bill of Foreclosure.

Humbly complaining, sheweth unto your Lordship, your Orator C. L. of, &c. that C. H. of, &c. the Defendant hereinafter named, being, or pretending to be, seized of, or well entitled in fee-simple to the reversion of and in the lands, hereditaments, and premises hereinafter mentioned, subject to a term of years from the day of , for which term the said C. H. had demised the said premises, by way of mortgage, for securing the sum of £ then due to one I. W. and being in want of the sum of £ to pay off the said mortgage, and also of the further sum of £ for his own use, the said C. H. did, in or about the month of, &c. apply to and request your Orator to advance and lend him the said sum of £ , upon the security or mortgage of the said premises; and your Orator having agreed thereto, did accordingly advance and pay the said sum of £ to the said I. W. and the said sum of £ to the said Defendant, and thereupon, for securing the repayment of the said £ with interest for the same, at and after the rate of 5 per cent. per annum, in and by a certain indenture bearing date on or about, &c. duly made and executed by and between the said I. W. therein described, of , &c. of the first part, the said Defendant C. H. of the second part, and your Orator of the third part, after reciting an original indenture of mortgage of the said premises, and two
several

several assignments thereof, it was witnessed, &c.; but subject nevertheless to a proviso or condition of redemption on payment by the said C. H. his heirs, executors, administrators, or assigns, unto your Orator, his executors, administrators, and assigns, of the said sum of £ , together with interest for the same, at and after the rate of 5 per cent. per annum, on the day of then next ensuing, as in and by, &c.; and your, &c. that the said sum of £ , or any part thereof, was not paid to your Orator, or any other person on his account, at the time limited and appointed in that behalf, in and by the said indenture, but default was made in the payment thereof, whereby the legal estate and interest of and in the said ten yard and premises, for the residue of the said term of years, became vested in your Orator, redeemable nevertheless in equity, on payment of the principal and interest due, and to become due thereon; and your, &c. that the whole of the said principal sum of £ being still due and owing to your Orator, together with a large arrear of interest thereon, your Orator hath, by himself and his agents, frequently applied to the said C. H. to pay to your Orator the said principal monies and interest, or else quietly and peaceably to deliver up to your Orator the possession of the said mortgaged premises, and to release all his right, title, and equity of redemption of and to the same, for the residue of the said term of years; and your Orator well hoped, but now, &c. *Pretends* that your Orator never advanced the said sum of £ , or any part thereof, on such security as aforesaid, but at other times he will admit the same; and then he pretends that he hath fully paid the said principal money, and all interest due thereon. *Charges contrary.* And the said Defendant at other times pretends that there are many other charges, mortgages, and incumbrances, affecting the said premises, made and executed by him, or some person or persons under whom he claims priority in point of time to the aforesaid indenture, by the particulars thereof, or when, or by whom made, or for what consideration, or what is now due thereon, the said Defendant refuses to discover; all which, &c. to the end, &c. (*Interrogate to each fact*). And whether there are any other and what mortgages, charges, or incumbrances affecting the said mortgaged premises; and that the said Defendants may set forth and discover the full particulars thereof, and when and by whom made, and for what consideration or considerations, and what is now due thereon, and to whom.

Prayer.

And that the said Defendant may answer the premises; and that it may be referred to one of the Masters of this honorable Court, to take an account of what is due to your Orator for principal and interest on his said mortgage, from the said Defendant; and that the said Defendant may be decreed to pay to your Orator what shall be found due on such account, by a short day to be appointed by this honorable Court in that behalf, together with your Orator's costs, and in default thereof, that the said Defendant, and all persons claiming under him, may be for ever barred and foreclosed of and from all right and equity of redemption of, in, and to the said mortgaged premises, or any part thereof, for the residue of the said term

term of years, and may deliver up to your Orator all deeds, papers, and writings in his custody or power, relating to or concerning the said mortgaged premises. And for further relief.

Bill to foreclose and to redeem a Trust Term.

States, that F. R. was seised in fee simple of premises subject only to the payment of £ , the portions of his sisters M. R. and A. R. by virtue of the will of their father.

States applications to H. B. for the £ agreement to bind the money and indentures of L. and R.

States the advancing the £ and £ to H. B. by the complainant, and £ to F. K. and the conveyance from B. to R. to the complainant.

States, that F. W. of, &c. and S. J. late of, &c. intending to harass and perplex Oratrix, did, in Easter Term last, cause an action of trespass and ejectment to be brought in his Majesty's Court of K. B. for the recovery of the possession of the said mortgaged premises, and did cause declaration therein to be delivered to R. M. tenant in possession of considerably the greater part of the said premises, to which ejectment, Oratrix, by rule of said Court of K. B. did cause herself to be made Defendant, in the room of the casual ejector, and the said cause coming on to be tried at the last assizes in and for the county of S., the Jury sworn for that purpose did find a verdict for the Plaintiffs, the said F. W. and S. J., and lessors for the Plaintiff proved a trust term of years to them, of most part of the said mortgaged premises, by the will of the said I. R. deceased, late father of the said F. R. deceased.

States the trusts of the term.

States that the personalty, and some premises in possession of the Trustees, were sufficient to answer trusts, and that they were actually answered.

And Oratrix well hoped that the said F. R. would either have paid your Oratrix the said sum of £ , and the interest thereof, at the rate aforesaid, or that he and the said F. W. would have suffered your Oratrix peaceably and quietly to have enjoyed the possession of the said premises, and for that purpose Oratrix hath frequently applied herself to the said F. R. and requested him to pay the said sum of £ , and the interest due for the same, or else to deliver possession quietly to your Oratrix of the said mortgaged premises, together with all deeds, &c. relating to and concerning the same, and to release all his right and equity of redemption to the same premises, to your Oratrix and her heirs; and your Oratrix hath also applied herself to the said F. W. and S. J. in his lifetime, to assign to her the said trust term of years, limited to them by the will of the said I. R. as aforesaid, they well knowing that the trusts of the said term were fully discharged. And your Oratrix well hoped, &c.

Pretends that the premises were in mortgage to some other persons, for recovery of some considerable sum of money, and at the time the mortgage

gage was made to the said H. B., he, the said F. R. had only the equity of redemption of the same.

Charges, that no mortgage was made of the premises by the said F. R. or any other person, prior to the said mortgage to the said H. B. or if any such there is, that the same is voluntary and fraudulent, and made without any consideration, but that the said F. R. was seized and possessed of the legal estate of and in the said premises, at the time of the execution of the said mortgage to the said H. B. as aforesaid.

Pretends that he hath confessed judgments, &c. &c. And the said F. W. as the surviving Trustee, insists he is entitled to hold the premises so devised to them, the said F. W. and S. J., by the will of the said I. R. as aforesaid, for the remainder of the trust term of years, sometimes pretending there are several debts of the said I. R. undischarged, but the said F. W. refuses to discover the amount of the said pretended unsatisfied debts of the said I. R., or to whom or on what account they are due, or how the same are secured.

Charges, that all the debts of the said I. R. are paid, and at other times the said F. W. pretends that the fortunes of the said daughters of the said I. R. the Testator, directed to be raised by his will as aforesaid, or some considerable part thereof, yet remains unsatisfied, and a charge upon the said premises.

Charges, that the personal estate of the said Testator I. R., and the premises, directed by his said will to be sold for payment of his debts, were more than sufficient for that purpose; or if the same fall short of payment thereof, the said F. W. and S. I. paid the same out of the rents and profits of the said trust premises which came to their hands to a very considerable amount, and were more than sufficient not only to make good any deficiency in the fund appropriated for payment of the said Testator's debts, but also to have discharged the fortunes directed to have been raised for the said Testator's three daughters, all of which your Oratrix charges, that if the said F. W. did not apply such sums of money as they received by the rents and profits of the said trust premises in discharge of the said Testator's debts, and other the trusts in them reposed, but disposed of the same, or any part thereof, to or for any other purposes, that the said F. W., the surviving Trustee, ought to answer such sums as has been paid out of the rents aforesaid, out of his own proper effects.

Pretends, that although the trusts of the said term of years are fully performed and discharged, yet he is entitled to hold the said premises for the remainder of years for his own use and benefit, and that he will not assign the same; and the said M. R. pretends, that she is entitled to some very considerable sum of money from the said premises, by virtue of the will of her father, the said I. R., not only on account of her own fortune, and the interest thereof, but also an account of D. R. deceased, late one of the daughters of the said I. R., alledging that the said D. R. did by some deed or writing, or by her last will appoint the payment of £ , being her fortune, to or in favor of her the said M. R.; and the said M. R. insists that the said F. W., the surviving Trustee, is entitled to hold the said premises until such time as her said demands therein are fully satisfied and paid.

Charges,

Charges, that the said sum of £ hereinbefore mentioned to have been borrowed by the said F. R. from the said H. B. was borrowed at the request and with the privity of the said M. R. to discharge the fortunes so given to her and the said D. R. deceased, by their said father I. R., and that the sum of £ was accordingly paid by the said F. R. to the said M. and A. R., and that the said A. R. is now in a nunnery in France.

Charges, that the fortune of the said D. was paid to her in her lifetime, and that the said premises are well and sufficiently exonerated therefrom, and the said F. R. having contracted many considerable debts, and having declared himself insolvent, and been discharged from the King's Bench prison, under the last Act of Parliament for the Relief of Insolvent Debtors, they the said I. T., &c. having lately obtained an assessment of the estate and effects of him the said F. R. from F. L. the clerk of the peace for the county of S., under the late Insolvent Act, set up some claims upon the said estates, in right of the said F. R. and particularly alledge, that the said F. R. was only tenant in tail of the said estates.

Charges, that the said F. R. suffered a recovery of the said estates, and declared the uses thereof to himself in fee.

Pretend, that the demands of the said M. R. on the said premises are just and reasonable, and that the said F. R. did not borrow the said sum of £ from the said H. B. to discharge the fortunes of the said M. and A. R., or that if it were borrowed for that purpose he the said F. R. neglected accordingly.

Charges, that the said indenture of mortgage to the said H. B. expressly mentions, that the said sum of £ was borrowed by the said T. R. in order to pay the fortunes of his sisters, the said M. and A. R., and that the said indenture of mortgage expressly declares, that the said M. R. had paid his sisters their fortunes; and the said F. R. well knows that the said sum of £ was paid accordingly, and that he the said F. R. did take some discharge or acquittance for the same from the said M. and A. R. which he has either destroyed or now conceals, in order to defraud his just creditors, and to encourage and support the fraudulent designs of his sister, the said M. R.

Admit, that he has paid his said sister, the said A. R., her fortune, though he refused to produce any re-lease for the same, but pretends that the said fortune of the said D. R. deceased, is unsatisfied, and a charge upon the premises.

Charges, that the said D. R. did, some years ago, receive her said fortune, and did not make any appointment thereof by will, or otherwise, to or in favor of the said M. R., or if she did make the same, such appointment is null and void, she the said D. R. having, at the time of her death, no just claim of the said premises.

Pretends, that the said premises, in mortgage to your Oratrix, are also in mortgage to him with other the estates of the said F. R. for securing the repayment of a very large sum of money lent with interest, but the said W. H. refuses to discover the date or contents of such mortgage, sometimes pretending that it is prior to your Oratrix's title.

Charges, that if the said W. H. had any mortgage or incumbrance on the said premises, with other estates of the said F. R., that the same is
made

made for the payment of a much larger sum of money than was truly lent and advanced to the said F. R., and that the same is subsequent to your Oratrix's title, and ought to be postponed thereto; and the said W. H., &c. pretend that they are entitled to the equity of redemption of and in the said mortgaged premises, in trust for the creditors of the said F. R., under and by virtue of some conveyance thereof to them made by the said F. R., but refuse to discover the date and contents thereof, and the said W. H., &c. refuse either to pay unto your Oratrix the principal and interest due to her upon and by virtue of the said beforementioned mortgage, or to release to your Oratrix and her heirs the equity of redemption of and in the said mortgaged premises, without the direction or indemnity of this honorable Court. All which, &c.

Prayer.

That an account may be taken of what is due to your Oratrix upon her aforesaid security of the said £. and interest, and in case any thing shall appear to be due under the trusts of the said term of years, that your Oratrix may be at liberty to redeem the same; and that what your Oratrix shall pay in redemption of the said term of years, with subsequent interest computed thereon, may be added to what shall be found due to your Oratrix upon her said security; and that the said several Defendants may be decreed, by a short day to be limited by this honorable Court, to pay to your Oratrix the whole of what shall appear to be due to her as aforesaid, or in default thereof that they may be barred and absolutely foreclosed of and from all right and equity of redemption of the said mortgaged premises, and deliver up to your Oratrix all deeds and writings in their custody or power belonging to or relating to the said mortgaged premises; and that the said F. W. and M. R. may be restrained by the injunction of this honorable Court from proceeding further by law to recover possession of the said mortgaged premises; and that a receiver may be appointed by this honorable Court of the said mortgaged premises. And for further relief.

— M.

Pray Subpna against F. R. mortgagor, F. W. holder of the term; M. R. and A. R. sisters to F. R. claiming under the trusts of the term; H. H., &c. &c. assignees for the creditors under the act of insolvency.

Bill by Mortgagee against Mortgagor for Delivery of Title Deeds under an Undertaking for that Purpose, and an Injunction to restrain from defeating Plaintiff's priority, by delivering Deeds to a second Mortgagee.

Humbly complaining, sheweth unto your Lordship, your Oratrix, I. F. of, &c. that by indentures of lease and release, bearing date respectively

tively the, &c. and made, or expressed to be made, between M. W. of, &c. the Defendant hereinafter named, and H. B. of, &c. a Trustee in whom the legal estate and interest of and in the hereditaments therein mentioned, was then vested jointly with and in trust for the said M. W. of the one part, and your Oratrix of the other part. Reciting, &c. (being the mortgage deed of the security of £ and interest, the sum lent to M. W. the mortgagor). And your, &c. that by indenture of assignment, bearing date on or about, &c. between, &c. (being an assignment of a term of years for further security), as in and by, &c. And your, &c. that at the time the said several mortgage securities were delivered to your Oratrix, or to her solicitor, the title deeds of the said mortgaged premises were not given up with them, but the solicitor or agent of the said M. W., signed and delivered a memorandum, in writing, in the words and figures, or to the purport and effect following, (that is to say,) I do hereby undertake, &c. (to deliver the said deeds and writings), as in and by, &c. And your, &c. that your Oratrix being advised that her mortgage was not secure without a delivery of the title deeds of the premises comprised therein, your Oratrix, by herself and her solicitors, caused frequent applications to be made to the said Defendant and to his solicitor for that purpose: and your Oratrix sheweth, that the said Defendant from time to time evaded the delivery of the said title deeds, alledging that other property to a great amount was included in the same conveyance to him, and that he intended to sell some part of the said estate, and to pay off the said sum of £ and interest; and your Oratrix sheweth that her solicitor hath proposed to the said Defendant, that he should retain the said title deeds, provided a memorandum of the mortgage made to your Oratrix were indorsed on his conveyance of the whole estate, and an attested copy of that conveyance were furnished to your Oratrix, together with a deed of covenant from the said Defendant to produce the said title deeds when required; and your Oratrix sheweth that the said Defendant hath lately signified that he had no objection to the proposed memorandum being indorsed on his conveyance at the expense of your Oratrix, but hath given no answer to the other terms of the said proposal of your Oratrix's solicitor, and still persists in his refusal to deliver up the said title deeds; and the said M. W. threatens and intends to borrow some further sum of money on the security of the said mortgaged premises, and to defeat the priority of your Oratrix's claim thereon by a delivery of the title deeds to such second mortgagee, unless he shall be restrained therefrom by the order and injunction of this honorable Court; and your Oratrix sheweth that the said Defendant hath now in his custody or power the title deeds and writings of the said mortgaged premises, and ought to set forth a list or schedule thereof. To the end, &c.

Prayer.

And that the said Defendant may answer the premises. And that the said M. W. may be decreed to deliver up to your Oratrix the title deeds, instruments, and writings, relating to or concerning the said premises so conveyed to your Oratrix by way of mortgage as aforesaid, or otherwise, to repay to your Oratrix the said sum of £ together

together with all interest thereon; and that in the mean time the said Defendant may be restrained by the injunction of this honorable Court. from delivering the said title deeds and writings to any subsequent mortgagee, so as to defeat the priority of your Oratrix's claim on the said mortgaged premises. And for further relief, &c.

J. L.

In the Exchequer.

Bill by the Devisee of an Equity of Redemption, against the Executor of Mortgagor, who had taken an Assignment of the Mortgage, charging that the Money was paid to the Mortgagee from the Assets of the Testator, the Executor being also Heir to the Testator.

Humbly complaining, shew unto your Honors, your Orator and Oratrix, T. R. of, &c. and H. his wife, late H. C. spinster, daughter of I. C. the elder, late of, &c. deceased, debtors and accountants, &c.

That the said I. C. being seized to him and his heirs, or otherwise well entitled to some and sufficient estate of inheritance, of, in, or to messuages or tenements, situate, &c. with the appurtenances, duly made or executed a certain indenture, bearing date, &c. and thereby, in consideration of the sum of £ , or some such sum, paid to him by S. S. of, &c. demised or otherwise conveyed to the said S. S. her executors, &c. the said messuages, &c. for the term of years, or some other number of years, but subject to a proviso or condition therein contained for redemption of the same, on payment by the said I. C. his heirs or assigns, of the said sum of £ , or other sum so paid to him as aforesaid, unto the said S. S. her executors, &c. with such interest for the same, and at such time, and in such manner as is therein mentioned, as by, &c.

That the said mortgage money was not paid at the day or time stipulated by the said indenture for payment thereof, but was continued at interest, and there being years interest or thereabouts due thereon, in or about, &c. the said I. C. actually paid the same to her the said S. S.

That sometime afterwards, and while the said mortgage money remained unpaid, that is to say, on or about, &c. he said I. C. died, but before his death duly made and published his last will and testament in writing, bearing date, &c. and thereby, amongst other things, gave and devised to Oratrix his daughter, &c. (aforesaid mortgaged premises in fee, and appointed M. C. executor, &c.) as by, &c.

That upon, or soon after the decease of the said I. C. the Testator, the said M. C. duly proved, &c. and possessed personals sufficient to pay debts, &c. and Plaintiffs, in right of Oratrix, became entitled under the said will to the said messuages, &c. subject to the aforesaid mortgage, and they have since suffered a common recovery thereof, and declared the uses of the said recovery to and in trust for Plaintiff and his heirs, whereby he is become entitled to the equity of redemption of the said premises.

That shortly after the decease of the said I. C. he the said M. C. having by means of the said personal estate and effects of the said Testator, or of his own proper monies, paid to the said S. S. what was due

to

to her for principal and interest upon her said mortgage, privately took an assignment thereof from her, and by means thereof, as being the only son and heir at law of his said late father the said Testator, prevailed upon the tenants of the said messuages, &c. to pay him the rent which became due for the same respectively after the said assignment, and being then in the possession of the residue of the said premises, as tenant to his said late father, continued in the possession thereof, and hath ever since continued in the receipt of the rents and profits of the said other premises:

That being so entitled to the equity of redemption of the said mortgaged premises as aforesaid, Plaintiffs have frequently applied to the said M. C. and desired him to inform Plaintiffs what had been paid by him to the said S. S. in the discharge of principal or interest on the said mortgage, and how much was actually and *bonâ fide* due thereon at the time the said mortgage was so assigned to him, and what sum or sums of money had come to his hands on account of the rents and profits of the said messuages, &c. and what sum of money became or was due to Plaintiff since the death of the said Testator, for or in respect of the premises so possessed or occupied by him as aforesaid, in order to ascertain what, after all just and reasonable allowances, remained due for principal and interest on the said mortgage, so as to enable Plaintiff to redeem the same, in case it should appear same had not been satisfied by or out of the personal estate and effects of the said I. C. the said Testator. And Plaintiffs hoped, &c. And in case it should appear that the said mortgage had been so satisfied by him out of such personal estate, or if otherwise, that upon Plaintiff's paying to him what remained due for principal and interest on the said mortgage, after all just and reasonable allowances, he would have assigned the said mortgage to or in trust for Plaintiff or his heirs, in such manner as should be reasonable or necessary in that behalf, and that he would have delivered up to Plaintiff all the title-deeds or writings in his custody or power, relating to the said mortgaged premises, and would have let Plaintiff into the possession thereof; and especially as Plaintiff frequently offered to pay unto the said M. C. what should appear to be so due on the said mortgage as aforesaid, together with months interest more than was so due, as a compensation or satisfaction for his not having had the usual notice of Plaintiff's intention to redeem the said premises. But now, &c.

Pretends no will made, &c. or not executed, &c. and that premises descended to him as heir at law.

Charge contrary, that will was well executed, &c. and of sound mind, &c.

Pretends, that he hath some estate or interest in the premises other than by and under the said will, or any assignment of the said mortgage from the said S. S., but what estate or interest in particular he refuses to discover.

Charge, that Defendant had not at the time of the death of said Testator, or since, any right or interest whatsoever in or to the said mortgaged premises, or any part thereof, save by or under the said will, and some assignment of the said mortgage from the said S. S. and which assignment, though now in the custody or power of the said Defendant, he refuses to discover and produce to Plaintiffs, or either of them, with

a view

in view of continuing in the possession and receipt of the rents and profits of the said mortgaged premises, to the prejudice of Plaintiff. And the said M. C. will at times acknowledge, that he paid to the said S. S. what was due to her for principal and interest on the said mortgage, and that he took an assignment thereof, to or in trust for himself, but then he pretends that the same was so paid with his own proper money, and the rather, as he pretends that personals, &c. were inadequate to the money due for principal and interest on the said mortgage, or at least that very little thereof hath ever come to his hands, or been received by him.

Charge, personals considerable, &c. and that the whole, or the greatest part thereof hath come to the hands of him the said M. C. or to the hands of some other person in trust for him, or for his use. And although the said Defendant hath in his custody or power some book or books of account, entries, memorandums, or writings, tending to shew or ascertain the particulars and value of such personal estate and effects, and what part thereof hath come to the hands, or to the use of him the said Defendant as aforesaid, or relating to such personal estate and effects, or some part thereof, yet he refuses to produce or discover the same, insisting that Plaintiff hath not any right whatsoever to be satisfied in or touching the premises.

Insist, that in case it shall appear that the said mortgage was so satisfied as aforesaid, by or out of the personal estate and effects of the said Testator, the same ought to be assigned to, or in trust for Plaintiff, or in case it hath not been so satisfied, a sufficient part of the said Testator's personal estate ought to be applied in satisfaction thereof.

Charge, that Plaintiff has been so far from refusing to redeem the said mortgage as aforesaid, that he hath at all events, and at different times, offered to pay what should appear to be due for principal and interest on the said mortgage, without any regard to his said claim on the said personal estate and effects as aforesaid in respect thereof, but without prejudice thereto.

Charge, that on, &c. Plaintiff called on the said Defendant at his house in K. aforesaid, and desired to know how much was then due for principal and interest on the said mortgage, and upon his refusing to disclose the same, Plaintiff actually tendered to him the sum of £ for satisfying what was then due to him for principal and interest on the said mortgage, together with months interest on the said principal sum more than what was then due, as a compensation and satisfaction for the said Defendant, for his not having had the usual notice of Plaintiff's intentions to redeem the said mortgaged premises, offering at the same time to pay the said Defendant in case he could make it appear that the said £ was not sufficient for answering the purposes aforesaid, but which in fact it was, and which the said Defendant then admitted it to be, and make good such deficiency, but which he repeatedly refused to accept. All which, &c.

Prayer.

That an account may be taken of what was due for principal and interest on the said mortgage at the time the said assignment was so taken

taken as aforesaid; and that an account may be also taken of what hath become due or ought to be paid from or by the said Defendant for or in respect of the rent for the premises so occupied by him since the death of the said Testator, and also of all and every the sum or sums which since the death of the said Testator have been received by the said Defendant, or by his order, or for his use, for or on account of the residue of the said mortgage, in case it shall appear that the said mortgage is satisfied by the said Defendant, by and out of the personal estate of the said Testator, so that what shall appear to be coming out of the rents and profits as aforesaid, after all just and reasonable allowances, may be paid to Plaintiff. And in case it shall appear that the said mortgage was paid and satisfied by the proper money of the said Defendant, then that an account may be taken of the personal estate of said Testator, and what is due for principal and interest on the said mortgage as aforesaid; and that what shall appear to be so coming on account of the rents and profits, after all just allowances, may in such case be set off in part satisfaction or discharge of what shall appear to be due for principal and interest on said mortgage, and in such case that a sufficient part of Testator's personal estate may be applied in discharge of the said mortgage money and interest; and if the same shall not be sufficient, that upon Plaintiff's paying to the said Defendant what shall appear to be then remaining due for principal and interest, that the said Defendant may be decreed to assign or convey the said mortgaged premises for the residue of the said term therein granted, to or in trust for Plaintiff, in such manner as this Court shall direct, and may also deliver up to Plaintiff all the title-deeds, evidences, and writings whatsoever, in his custody or power, touching or concerning the said mortgaged premises, or any part thereof, and that he may also be let into the possession thereof. And further relief.

J. L.

*Bill of Foreclosure by the Executors of the Mortgagee,
against the Mortgagor and his Assignees.*

Humbly complaining, shew unto your Lordship, your Orators G. R. of and I. W. P. of , executors of the last will and testament of T. W. late of , deceased, that by indenture, &c. as in and by, &c. And your, &c. that the said sum of £ , or any part thereof was not paid to the said T. W. or to his use, at the time limited and appointed in that behalf by the said indenture of mortgage, but default was made in the payment thereof, whereby the legal estate and interest of the said T. W. of and in the said mortgaged premises, for the rest and residue of the said several terms became absolute in law, but redeemable in equity, upon payment to the said T. W. of the said principal money and all interest due thereon. And your, &c. that the said T. W. before he had received or been paid any part of the said principal sum of £ , and on or about the day of , departed this life, having first duly made and published his last will and testament in writing,
and

and thereby constituted and appointed your Orators the executors thereof, as in, &c. And your, &c. that they have since duly proved the said will in the proper Ecclesiastical Court, and have undertaken the execution thereof, and have thereby become entitled to the said mortgage premises for the rest and residue now to come and unexpired of the said several terms, subject to such redemption as aforesaid, and to have and receive the principal money and interest due and owing thereon. And your, &c. that afterwards, and before the said principal sum of £ , or any part thereof was paid off, and on or about the day of , the said M. E. having become a bankrupt, a commission of bankrupt issued under the great seal of Great Britain, (*state the commission in the usual way*) whereby the said (the assignees) became and are now entitled to the equity of redemption of the said mortgaged premises, for the residue of the said several terms. And your, &c. that the whole of the said principal sum of £ being now due and owing to your Orators as such Executors as aforesaid, together with a large arrear of interest thereon, your Orators have caused frequent applications to be made to the said M. E. and the said , and have requested them either to pay and satisfy the said principal money and interest to your Orators, or otherwise to release and assign their equity of redemption of and in the said mortgaged premises for the residue of the said terms, in the said indenture of mortgage mentioned, to your Orators, and to deliver up to them the deeds and writings relating thereto. And your Orators well hoped, &c. But now, &c. pretending that no such indenture of mortgage of such date, purport, or effect as aforesaid, was made or executed by the said M. E. but at other times they will admit the same; but then they pretend that the said M. E. previous to his bankruptcy, paid, or caused to be paid, to the said T. W. in his life-time, or to your Orators since the decease of the said T. W. the said sum of £ , and all interest due thereon, and that there is no sum of money due or owing to your Orators upon the security of the said mortgaged premises, whereas your Orators charge, that the said sum of £ and an arrear of interest thereon was due and owing to the said T. W. at the time of his decease, and that the said principal sum, together with a further arrear of interest, is now due and owing to your Orators, as such executors, upon the security of the said mortgaged premises, and by virtue of the said indenture; and so the said confederates will sometimes admit, but then they give out and pretend, that there are many other charges, mortgages, and incumbrances affecting the said premises, made and executed by the said M. E. and prior in point of time to that made by him to the said T. W. deceased, but the particulars thereof, or when, or to whom made, or for what consideration, or what is now due thereon, the said confederates refuse to discover. All which, &c. To the end, &c.

Prayer.

And that it be referred to one of the Masters of this honorable Court, to take an account of what is due to your Orators, as such executors as aforesaid, for principal and interest on the said security from the said M. E. to the said T. W. deceased, and that the said confederates may be decreed to pay to your Orators what shall be found due

due on such account by a short day to be appointed by this honorable Court in that behalf, together with your Orator's costs, and in default thereof, that the said M. E. and the said , and all persons claiming under him or them, may be barred and foreclosed, of and from all right and equity of redemption of, in, and to the said premises, or any part thereof, for the residue of the said several terms. And may deliver up to your Orators all deeds, papers or writings in their or either of their custody or power, relating to or concerning the same. And for further relief, &c.

J. L.

Pray Subpana against M. E. and —.

Bill for an Account and Redemption of mortgaged Premises, Plaintiff being Heir at Law of Mortgagor, and Defendants, Persons in Possession. Affidavit of Plaintiff, that he has no Deeds of the Premises.

Humbly complaining, sheweth unto your Lordship, T. G., of, &c. the eldest son and heir at law of H. G. late of, &c. and who was the nephew and heir at law of H. G. the elder, late of, &c. deceased.

That the said H. G. the elder, was in his life-time, and at the time of his death, seized or entitled in fee-simple, subject to a mortgage term of years, which by some mesne assignments or otherwise, has been assigned to, or vested in W. G. the elder, M. G. and E. W. the Defendants hereto, or some or one of them, of or to divers messuages, tenements and hereditaments, situate, &c. and elsewhere, of great yearly value, and particularly of several messuages, &c. thereto adjoining. And the said H. G. the elder, departed this life some time ago intestate, and without issue, the said H. G. Plaintiff's late father, his nephew and heir at law him surviving; but the said H. G. the younger was in very narrow circumstances, and not able to pay off the mortgage, which affected the said premises; and before the death of the said H. G. the elder, or at some other time, the mortgagee or mortgagees took possession of all his real estates, and he or they and the Defendants hereto have been in the possession thereof ever since, and they have paid off all, or nearly all the principal and interest due on the said mortgage.

That the said H. G. the younger, departed this life or years ago, intestate, leaving Plaintiff, his eldest son and heir at law, and thereupon the said real estates descended to Plaintiff, subject to the said mortgage; and Plaintiff, desirous of redeeming the same on payment of what, if any thing remained due by virtue of such mortgage, and of getting into possession thereof, hath frequently requested the said W. G. the elder, M. G. and E. W. to state an account of the principal money and interest due on the said mortgage, and also of the rents and profits of the said premises, received by the mortgagee or mortgagees thereof for the time being, and Plaintiff offered to pay to them what, if any thing should appear to be due to them on balance of such account. And Plaintiffs

also requested them to deliver possession of the said premises to him. But now, &c.

Pretend, that the said H. G. the elder, by some deed or deeds, or by his last will and testament in writing, limited or devised the said premises or some part thereof in fee-simple, or for some other estate, to the said Defendants, or some or one of them, or to some other person or persons under whom they, or some or one of them, claim or claims. But the said Defendants refuse to discover and set forth as they ought to do, the dates and parties' names, and the names of the witnesses to such deed or deeds, and the date of, and the names of the witnesses to such will, and the short and material contents of such deed or deeds, or will. But the said Defendants will at other times admit, that the said H. G. the elder, died intestate, and without having otherwise disposed of the said premises. But then, they

Pretend, that Plaintiff is not the heir at law of the said H. G. the elder, and that the person who was his heir at law at his death, or some person whom they alledge was entitled to the said premises in some manner, by some deed or deeds, agreement or will, conveyed, or agreed to convey, or devise the said premises and the equity of redemption thereof, to them the said Defendants, or some persons or person under whom they claim, and that the said Defendants are absolutely entitled to the said premises. But they refuse to discover who was and is, as they allege, the heir at law of the said H. G. the elder, and by what pedigree he or she appears or appeared so to be, and the persons or person who conveyed the said estates, or any of them, to the said Defendants, or to the persons or person under whom they claim the same, or the date or dates of, and parties and witnesses names to the said deeds or deed, or agreement, or the date and the witnesses names to the will, or the short and material contents, and the consideration of the deed or deeds, agreement or will, under which the said Defendants claim the said premises, by, from, or under the alleged will or deed of the said H. G. the elder, or such other person or persons as aforesaid. However, Plaintiff

Charges, that he is the heir at law of the said H. G. the elder, Plaintiff being the eldest son of the said H. G. the younger, who was the eldest son of G. G. who was the eldest brother of H. G. the elder.

Charges, that if Defendants shall pretend that they are purchasers of the said premises for a valuable consideration, then that such persons or person who sold or conveyed the same to them the said Defendants, or to those under whom they claim, could not at the time of such sale, make out a legal title to the said premises or any part thereof, and that it so appears by some abstract or abstracts of the title in the possession or power of the said Defendants; and at the time such sale or conveyance was made, the said Defendants, or some or one of them, or those under whom they claim, or before the conveyance was executed, or the consideration money was paid, had some knowledge, notice, or belief, or suspicion, or had some reason to know, believe, or suspect, or had been informed that the person or persons who sold or conveyed the said premises, had no title, or a deficient or doubtful title thereto, and that the heir at law of the said H. G. the elder, was not a party to the said sale or conveyance, and that on account of the badness or doubtfulness of such title, the said confederates, or those under whom they claim, paid a very small or
inconsiderable

inconsiderable sum as a consideration for the said premises, and that they, or some or one of them, received some indemnity from the person or persons who so sold or conveyed the said premises, in case Plaintiff, the heir at law of the said H. G. the elder, should assert his title to the said premises and succeed therein. And the said Defendants, or some or one of them, or some other person or persons on their or one of their behalf, have or has frequently desired Plaintiff to release his right and title to the said premises, and have offered him money for so doing.

Pretend, that they claim title to the said premises by other means, not herein before mentioned, but by what means and what deeds, and of what date, and when executed, and when and where, and by whom, and in whose presence such deeds were executed and attested they refuse to discover. And they have all the deeds and writing relating to the said premises in their custody or power, and they threaten or intend to nonsuit Plaintiff in case he shall attempt to recover possession of the said premises by ejectment. All which, &c. To the end, &c.

Prayer.

That an account may be taken of what, if any thing is due for principal and interest, on the security of the said premises. And that an account may also be taken of the rents and profit of the said premises received by the said Defendants and those under whom they claim. And that upon payment of what, if any thing shall appear to be due to said Defendants on the balance of accounts, Plaintiff may be at liberty to redeem the premises. And that the Defendants may deliver the possession of the said premises to Plaintiff, and also deliver up to him all deeds, papers and writings in their possession or power relating thereto, and assign the said sum to, or in trust for Plaintiff. And for further relief.

R. R.

In Chancery.

Between G. G. Plaintiff,
and
W. G. and others, Defendants.

G. G. the above named Plaintiff maketh oath, that he, this deponent, hath not, nor to the best of his knowledge, remembrance or belief, ever had all or any of the deeds, evidences and writings, relating to the estate in question in this cause, and which are mentioned in this deponent's bill, exhibited in this honorable Court, against the said Defendants, nor doth this deponent know where the said deeds, evidences and writings, or any of them now are, unless they be in the custody or power of the said Defendants, some or one of them.

Bill to foreclose, and to have a Term to attend the Inheritance declared to be in Trust for the Mortgagee.

Humbly complaining, sheweth unto your Lordship, your Orator R. S.
M 2 of,

of, &c. that in or about the year , P. J. of, &c. being or pretended to be seized in fee, or of some other good and sufficient estate of inheritance, of and in, &c. hereinafter mentioned, and having occasion for money, did apply to your Orator, and desire your Orator to lend him the said P. J. the sum of £ , and in order to secure the repayment of the same with interest, after the rate of, &c. did propose to mortgage to your Orator the said manor, &c. which he did affirm to your Orator were free from all prior incumbrances, save a term of years in some part of the same premises, which, as the said P. J. informed your Orator, was then vested in L. M. of, &c. in trust for the said P. J. his heirs and assigns, and to be disposed of and assigned as he or they should direct. And your, &c. that your Orator did comply with the said request of the said P. J. and did accordingly lend him the said sum of £ , and for securing the repayment thereof with interest as aforesaid, by indentures of L. and R. bearing date respectively, &c. and made between the said P. J. and his wife of the one part, and your Orator and one A. B. of, &c. since deceased, of the other part. The said P. J. for and in consideration, &c. (*set forth mortgage deed*) as in and by, &c. And your Orator charges, that the said sum of £ , or any part thereof, was not paid to your Orator or any person on his behalf, according to the said proviso in the said indenture of release contained, at the time therein mentioned, or at any other time. And your, &c. that the said P. J. having a further occasion for money, did, some time in or about, &c. again apply to your Orator to lend him the further sum of £ , and in order to secure the repayment of the same with interest, after the rate of £ offered to charge the said mortgaged premises therewith, which your Orator consented to, and accordingly did advance, lend, and pay to the said P. J. the said sum of £ , and for securing the repayment thereof with interest as aforesaid, by indorsement made upon the back of said indenture of release, bearing date, &c. reciting, &c. as in and by the said indorsement at the back of the said release, &c. And your, &c. that the said sum of £ or any part thereof, hath not been paid to your Orator, neither was the said sum of £ or any part thereof, paid to your Orator, according to the condition in the said in part recited bond, at the time therein mentioned, or at any time since, but the said two several sums of £ , and £ are now due and owing to your Orator, together with a great arrear of interest on the said several sums, after the respective rates aforesaid; and the said A. B. being deceased, the estate and interest in the said mortgaged premises, is now become absolute in your Orator and his heirs. And your Orator well hoped, that the said P. J. would either have paid your Orator the said several sums of £ and £ , and the interest thereof respectively, after the rates aforesaid, or would have suffered your Orator to have peaceably and quietly held and enjoyed the said premises, and for that purpose, your Orator hath frequently applied to the said P. J. and requested him to pay the said several sums of £ and £ , and the interest due for the same respectively, or else peaceably to deliver up possession to your Orator of the said mortgaged premises, together with all deeds, evidences, writings, escripts, muniments, court rolls, rent rolls and minutes of courts, relating to, or concerning the same, and to release all his right, title and equity of redemption of, in, and to the same premises to your Orator and his heirs, the said P. J. well knowing, as your Orator charges

charges the truth to be, that the said premises are a very scanty security for the principal and interest now due to your Orator thereon. And your Orator well hoped, &c. But now, &c. pretends, that the said premises were mortgaged by the said P. J. to the said L. M. for the said term of years, for securing to him some very considerable sum of money, and that at the time such mortgage was made to your Orator as aforesaid, he the said P. J. had only the equity of redemption of the same. *Charges*, that no money was due to the said L. M. in such term, but that the said L. M. is seized of the said term of years, and his name made use of barely as a Trustee, and the said term is now vested in him, in trust for your Orator and his heirs, to attend the inheritance of the said premises, nevertheless, the said L. M. refuses to let your Orator bring an ejectment in his name for recovery of the premises comprized in the said years term; and at other times the said P. J. pretends, that he hath confessed judgment, statutes, and recognizances to several persons for several considerable sums of money, and made several other grants, conveyances and secret incumbrances which will affect the said premises prior to your Orator's title to the same, but refuses to discover the same, or to whom he hath so sold, mortgaged or incumbered, the premises as aforesaid, or the respective considerations thereof, or to the persons to whom he hath confessed such judgments, statutes, or recognizances, and for what sums, and for what considerations, so that your Orator cannot proceed at law for recovery of said mortgaged premises, the said P. J. threatening, in case your Orator proceeds at law, to set up the said incumbrances, and the said trust term of years in the said L. M. all which they pretend are prior to your Orator's said mortgage. Whereas your Orator charges, that such conveyances, mortgages, or other incumbrances, except the said trust term, are not prior to your Orator's said mortgage, if any such there be, or if any of them are prior to your Orator's said mortgage, the same are voluntary and fraudulent, and made without any consideration really and truly paid; and such judgment, statutes, and recognizances were not for the payment of any just debt, but without any consideration, and voluntary and contrived, on purpose to defraud the just creditors of the said P. J. All which, &c. To the end, &c. (*interrogate to each fact.*)

Prayer.

And may set forth what incumbrances there are upon the said mortgaged premises, and when and by whom the same were charged or incumbered, and who claim the same respectively, and may set forth the nature and kinds thereof, and whether the same are by absolute sale, mortgage statute, merchant statute, statute judgments, recognizances, or how otherwise, and the dates, tenor, and short contents of such several incumbrances, and of the deeds, records, or other instruments or writings, treating or relating to the same; and may set forth the respective considerations thereof, and when, where, and in whose presence such considerations were respectively paid; and whether in specie, bills, or how otherwise; and whether the said incumbrances, or any and which of them, are now unpaid and unsatisfied, and how much money is now due on the same respectively.

And

And that the said P. J. may be decreed to pay and satisfy to your Orator the said several sums of £ and £ , and all interest due and to grow due thereon, after the respective rates aforesaid, by a short day to be appointed by this honorable Court, together with your Orator's costs, and in default thereof that the said P. J., and all persons claiming under him, may be foreclosed of and from all equity of redemption or claim, in and to the said mortgaged premises, and every part thereof, and may deliver over to your Orator all deeds, charters, &c. whatsoever, relating to or concerning the said manor, &c.; and that the said L. M. may set forth what right or title he hath or claimeth of and in the said premises, or any or what part thereof, and whether he is not a trustee for your Orator, and why he refuses to let your Orator bring an ejectment in his name, in order to recover possession of the said premises; and that the said term of years may be declared to be in trust for your Orator and his heirs, to attend the inheritance of the said premises. And for further relief, &c.

Bill for an Account of Mortgage Money due, and Sale of mortgaged Premises.

Humbly complaining, shew unto your Lordship, your Orator and Oratrix, J. B., of, &c. and C. B., his wife, which said C. B. is the executrix and residuary legatee, named in the last will and testament of her late husband J. R., deceased; that the said J. R., in his life-time, being seized to him and his heirs, according to the custom of the manor of P. R. aforesaid, of certain copyhold messuages, lands, tenements, and hereditaments, held of the said manor, in consideration of the sum of £ , paid to him by W. K., one of the Defendants hereinafter named, and for securing the repayment thereof, with interest, on or about the day of , duly surrendered according to the custom of the said manor, all the said messuages, lands, tenements, and hereditaments, held of the same manor, to the use of the said W. K., his heirs and assigns for ever, which said surrender was, by a provision therein contained, conditioned to be void on payment by the said J. R., his heirs or assigns, to the said W. K., his executors, administrators, and assigns, of the sum of £ , with such interest for the same, and at such time and in such manner as is therein mentioned, in and by the said surrender, which was duly enrolled in the court rolls of the said manor, or a copy thereof, when the same shall be produced to this honorable Court, will more fully and at large appear. And your, &c. that it being apprehended by the said W. K. that the said copyhold premises, so surrendered to him as aforesaid, by way of mortgage for securing the repayment of the said sum of £ , and interest, were not of adequate value for that purpose, the said J. R. as and for a further and collateral security, duly executed a certain bond or obligation in writing, bearing date on or about the said day of , whereby he bound himself, his heirs, executors, and administrators, unto the said W. K., his executors, administrators,

nistrators, and assigns, in the sum of £ , with a condition thereunder written for making the same void on payment by the said J. R., his heirs, executors, and administrators, of the sum of £ , with interest for the same, at the time and in the manner therein mentioned, as in and by the said bond or obligation which is now in the custody or power of the said W. K., when the same shall be produced to this honorable Court will more fully and at large appear. And your, &c. that the said J. R. afterwards duly made his last will and testament in writing, bearing date on or about the of , and executed in such manner and form as by law is required to pass real estate, whereby, &c. (gave personals to Oratrix, subject to his debts, &c. and devised his lands, &c. to his brother, and heir at law, W. R., appointed Oratrix sole executrix), as in and by, &c. And your, &c. that the said W. R., after the death of the said Testator, entered into and upon the said copyhold estates in the said manor of P. R., so mortgaged as aforesaid to the said W. K., and became and was entitled to the equity of redemption thereof, subject to the said mortgage; and the said W. R., being so seized, departed this life on or about the day of , having first duly made his last will and testament, in writing, and thereby devised all his right and interest in and to the said copyhold premises unto T. G. and J. P., two other Defendants hereinafter named, and their heirs, in trust, to sell the same, and to apply the produce thereof in manner therein mentioned, and he thereby appointed the said T. G. and J. P., the executors thereof, as in and by, &c. And your, &c. that after the death of the said J. R., and in or about the day of your Orator and Oratrix intermarried together. And your, &c.

Inquiry.

And whether the said Defendants T. G., J. P., and W. K., or some, or one, and which of them, did not make a sale of the said copyhold premises, so mortgaged as aforesaid, to the said W. K., at or about the time and for the price hereinbefore mentioned, or at or about some and what other time, and for some and what other price in particular; and that the said Defendants may set forth the particulars of such sale, and to whom sold, and when and by whom the money arising therefrom was received, and how the same was applied and disposed of; that the said Defendants T. G., J. P., and W. K., on or about the day of , joined in a sale of the said copyhold premises so mortgaged as aforesaid, to the said Defendant W. K., by the said T. R., at and for the price or sum of £ , or at and for some other sum greatly exceeding the amount of the said principal, and of all interest due thereon, to the said Defendant W. K.; and forasmuch as the said copyhold estate and premises were devised to the said W. K., by the said T. R., expressly subject to the mortgage so made to the said W. K. as aforesaid, and then an actual subsisting charge thereon, your Orator and Oratrix well hoped that the said Defendants W. G. and J. P. would have applied as much of the said money as was necessary in satisfaction and discharge of the said mortgage; and that the said W. K. would have delivered up to your Orator and Oratrix, to be cancelled, the aforesaid bond conditioned for the payment of £ , and interest, which was given by the said J. R., deceased,

deceased, to the said Defendant W. K. as and for a collateral security to the said copyhold premises. But now so it is, &c. the said J. G. and J. P. have only applied so much of the money arising from the sale of the said copyhold premises as was necessary to discharge the sum of £ , and interest, part of the said mortgage to the said W. R., and absolutely refuse to apply any further or other sum in discharge thereof, sometimes pretending that the said copyhold premises were by the terms of the said mortgage to stand as a security for the sum of £ only, and that the rest of the said loan of £ from the said W. K. to the said J. R. was secured only by the bond of the said J. R., whereas your Orator and Oratrix expressly charge, that the whole of the said sum of £ was secured by the said mortgage, and that so it would appear, as well by the aforesaid surrender, as well by the mortgage deed, or other instrument accompanying the same, if the said W. K. would produce them, but which he refuses to do. *Charge*, that the said bond was given by the said J. R. only as a collateral security to the said mortgage, in case the money, arising from the sale of such premises, should be insufficient to pay the said sum of £ , and interest. *Charge*, that even in case the said bond was not so given, yet that by the terms of the will of the said J. R., the said T. G. and J. P. took the premises expressly subject to the said mortgage, and liable thereto in the first instance. And so the said Defendants will at times admit, but nevertheless under such and the like pretences they persist in their said refusal. *Charge*, that the said Defendant W. K. joined with the said Defendants T. G. and J. P. in the sale of the said copyhold premises, without insisting on the full satisfaction of the principal and interest due to him on the mortgage thereof, in consequence of some secret and fraudulent agreement made between the three said Defendants for the purpose of charging your Orator and Oratrix with the money secured by the said bond; and the said W. K. hath commenced an action on the said bond against your Orator and Oratrix in his Majesty's Court of K. B., and threatens to proceed to judgment and execution thereof. All which, &c. To the end therefore, &c.

Prayer.

And that the said Defendants may answer the premises; and that an account may be taken of the principal and interest due to the said Defendant W. K. on the aforesaid mortgage of the said copyhold premises, made to him by the said J. R. deceased, at the time of the sale of the said copyhold premises, and that the same, or so much thereof as may be necessary, may be applied in satisfaction and discharge of the principal and interest which shall be found to be due as aforesaid to the said Defendant W. K.; and that the bond executed as aforesaid by the said J. R., as and for a collateral security to the said W. K., may be delivered up to your Orator and Oratrix to be cancelled; and that in the mean time the said W. K. may be restrained, by the injunction of this honourable Court, from all further proceedings at law against your Orator and Oratrix on the said bond. And for further relief, &c.

J. L.

*Pray Subpoena against T. G.
and J. P., and Injunction and
Subpoena against W. K.*

Bill

Bill by Heir of Mortgagor for Redemption of Copyhold Premises, and an Account of Rents and Profits received by Mortgagee.

Humbly complaining, &c. that E. M., late of, &c. widow, and now deceased, the mother of your Orator, was, in and before the month of , seized to her and her heirs, according to the custom of the manor of B. in the county of S., of and in a certain copyhold or customary messuage or tenement and premises, with the appurtenances, holden of the said manor, and lying in, &c. And your, &c. that the said E. M. having occasion to borrow a sum of money, did, on or about the, &c. apply to I. C. M., of, &c. the Defendant hereinafter named, to advance and lend her the sum of £ upon mortgage of the said copyhold messuage or tenement and premises, and the said I. C. M., having consented so to do, your Orator's said late mother duly surrendered the said copyhold or customary messuage and tenement, according to the custom of the said manor, to the use of the said I. C. M., and his heirs, upon condition, nevertheless, that the said surrender should be void upon repayment by the said E. M., her heirs, executors, administrators, or assigns, to the said I. C. M., his executors, administrators, or assigns, of the said sum of £ , with interest for the same after the rate of 5 per cent. on the, &c. And your, &c. that the said sum of £ not being repaid within the time mentioned in the said condition, the said I. C. M. was, on or about the day of , admitted tenant of the said premises, according to the custom of the said manor, to hold to him the said I. C. M., his heirs and assigns for ever, but subject, nevertheless, to the equity of redemption thereof by the said E. M., her heirs or assigns, as in and by the said surrender and admission, reference, &c. And your, &c. that the said I. C. M., upon his advancing the said sum of £ to the said E. M., entered into possession of the said mortgaged premises, or into the receipt of the rents and profits thereof; and the said I. C. M. hath ever since been and now is in such possession or receipt, and by means thereof, and of money from time to time advanced and paid to him by the said E. M., the said I. C. M. hath been greatly more than repaid the said principal sum of £ , and interest thereon. And your, &c. that the said E. M. departed this life on or about the day of , leaving your Orator, her youngest son and heir at law, and heir according to the custom of the said manor of B., and thereupon your Orator became entitled to the equity of redemption of the said mortgaged premises. And your, &c. that he hath, by himself and his agents, repeatedly applied to the said I. C. M., and requested him to come to an account with your Orator for the monies from time to time advanced to him in payment of the said mortgage money by the said E. M. in her life-time, and for the rents and profits of the said mortgaged premises received by him in the life-time of the said E. M., and since her death, and to pay over to your Orator what upon such account he shall appear to have received beyond the said principal sum of £ , and interest thereon, and to surrender the said copyhold premises to the use of your Orator and his heirs. And your

Orator

Orator well hoped, &c. But now, &c. pretends, that the monies which were paid to him on account of the said mortgage by the said E. M. in her life-time, and the rents and profits of the said mortgaged premises received by him, or which, but for his wilful default or neglect, he might have received since he first entered into the possession of the said premises as aforesaid, have not been more than sufficient to satisfy and keep down the interest from time to time accruing due on the said principal sum of £ . . . *Charge contrary*, and so it would appear, if the said Defendant would set forth, as he ought to do, a full, true, and particular account of all and every the monies received by him, in or towards satisfaction of the said mortgage money, and when and from whom received; and also a full, true, and particular account of the rents and profits of the said premises, since he first entered into the possession of the said premises as aforesaid, received by him, or which, but for his wilful default and neglect, might have been received by him, and whom, and from whom, and on what account respectively received; and your Orator further charges, that in order that the said Defendant might have no pretence to keep from your Orator the possession of the said mortgaged premises, your Orator, in the month of . . . last, tendered to him the full sum of £ . . . , subject to a future account as to the receipts of the said Defendants by the means aforesaid; and your Orator, at the same time, earnestly desired the said Defendant to furnish him with the particulars of the sums received by him, by the rents and profits of the said premises, or otherwise, in or towards satisfaction of the said mortgage monies, and offered to pay immediately any balance that should be due beyond the said sum of £ . . . , if any such there were; but the said Defendant refused to accept the said sum of £ . . . , or to deliver to your Orator any account of his receipts by the rents and profits of the said premises, or otherwise, and told your Orator that he might file a bill in equity against him as soon as he pleased. All which, &c.

Prayer.

And that the said Defendant may answer the premises; and that an account may be taken of the rents and profits of the said mortgaged premises which have been received by the said Defendant since his possession thereof as aforesaid, or which, but for his wilful default or neglect, might have been so received; and also an account of all other the sums which have been received by the said Defendant in or towards satisfaction of the said mortgage money; and that an account may also be taken of the principal and interest which hath accrued due on the said mortgage; and in case it shall appear that the rents and profits, and other receipts of the said Defendant, exceed the said principal and interest, then that the said Defendant may be directed to pay to your Orator such excess, your Orator being ready and willing, and hereby offering to pay to the said Defendant what, if any thing, shall on the balance of the said accounts appear to remain due on such mortgage to the said Defendant; and that the said Defendant may surrender the said mortgaged premises unto your Orator, or such other person as he shall appoint, free and clear of all incumbrances, done by him, or any person claiming

claiming by, from, or under him; and may deliver up to your Orator all title deeds or writings in his custody or power relating to the said mortgaged premises. And for further relief.

Bill to have Goods redelivered, which had been deposited as a Security for Money lent.

Humbly complaining, &c. your Orator A. S. of, &c. that your Orator having occasion for a sum of money for the purposes of his business, made application to P. S. of, &c. the Defendant hereinafter named, to lend him the same, and thereupon the said P. S., on or about, &c. advanced and lent to your Orator the sum of £ , and in order to secure the repayment thereof, with interest, your Orator deposited with the said Defendant a box of tanned boot-legs and tops, which were of the value of £ and upwards, and at the same time executed and delivered to the said Defendant a bill of sale of the said goods so deposited with him, but it was not meant and intended thereby, either by your Orator or the said Defendant, that the said transaction should amount to an absolute sale of the said goods to the said Defendant, but it was expressly agreed, between your Orator and the said Defendant, that your Orator should nevertheless be at liberty to redeem the same; and your Orator sheweth, that being desirous to redeem the said goods, he hath repeatedly applied to the said P. S., and hath offered to repay him the said sum of £ with lawful interest thereon, on having the said goods redelivered to him; with which just and reasonable request your Orator well hoped, &c. But now so it is, &c. To the end, &c.

Prayer.

And that the said Defendant may answer the premises; and that an account may be taken of what is due to the said Defendant for principal and interest, in respect of the said loan of £ , and that, upon payment thereof by your Orator, the said Defendant may be decreed to deliver over to your Orator the said goods so deposited with him as aforesaid. And that your Orator may have such further and other relief, &c.

J. L.

SECT. X.—BILLS UPON BANKRUPT MATTERS.

Bill by Assignees of Bankrupt against Bankers, for an Account of Money produced by Sale of Estates, which were assigned to them for paying certain Bills which they accepted for the Bankrupt.

Humbly complaining, shew unto your Lordship, your Orators J. M. of, &c. W. P. of, &c. and J. H. of, &c. assignees of the estate and effects of C. H. H. late of, &c. banker, that the said C. H. H. was, in and before the month of _____, seized in fee-simple, or otherwise well entitled, to him and his heirs, subject only to an estate for life to his wife E. A. H. in case she should survive him, of and in the manor, &c. (*set out the premises.*) And your Orators shew, that by certain indentures of lease and release, bearing date respectively the, &c. the release being of three parts, and made, or expressed to be made, between the said C. H. H. of the first part, S. O. H. of, &c. of the second part, and T. H. L. M. S. B. C. G. and H. H. all of, &c. bankers, and five of the Defendants hereto, of the third part, the said C. H. H. by way of securing to the said T. H. and his said copartners, all such sums of money as should be advanced by them to or for the use of him the said C. H. H. granted, released, and confirmed unto the said T. H. &c. and to their heirs and assigns, all those the aforesaid manor, &c. to hold, &c. (*set out this deed, which empowers Defendants to sell*) as in and by, &c. And your Orators further shew unto your Lordship, that the said T. H. and his said copartnership alledge, that upon the credit of the said security, they the said T. H. and his said copartners, accepted bills drawn upon them by the said C. H. H. to the amount of £ _____ over and above the money of the said C. H. H. in the hands of the said T. H. and his said copartners, and when the same became due, the said C. H. H. did not provide them with money for the payment of the said bills or any of them, and the said T. H. and his said copartners were obliged to take up and pay the same with their own proper monies. And your, &c. that the said T. H. and the said Defendants his copartners, with the privity and approbation of the said C. H. H. and E. A. his wife, caused the said manor and premises aforesaid to be put up to sale by public auction, on the _____ day of _____, by Mr. C. and the same were then sold to one E. R. esq. who was the highest bidder at the said sale, for the sum of £ _____. And your, &c. that after the said sale, and on or about the, &c. a commission of bankrupt under the great seal of Great Britain was awarded and issued against the said C. H. H. and he was thereupon duly found and declared a bankrupt by the major part of the commissioners in and by the said commission named and authorized, and your Orators were duly chosen assignees of his estate and effects; and the usual assignment of his personal estate, and a bargain and sale of his real estate was duly made to your Orators by the major part of the commissioners in
the

the said commission named. And your, &c. that by indentures of lease and release, bearing date respectively, &c. the release being of six parts, and made between, &c. the said manor and other premises were, in consideration of the said sum of £ , duly conveyed unto the said E. R. in manner therein mentioned. And your, &c. that the said price or sum of £ was paid by the said E. R. to the said T. H. and his said copartners, and that the said T. H. and his said copartners afterwards paid the sum of £ , part thereof, as or for the consideration or value of the life estate to which the said E. A. H. was entitled in remainder in the said manor and premises as aforesaid, but the said T. H. and the said Defendants his said copartners, have ever since retained, and do now retain in their hands, the residue of the said sum of £ , which, after satisfying their own debt, amounts to between £ and £ , and they have from time to time mixed such residue with their own monies, and employed the same in their trade or business of bankers, or have otherwise made interest thereof. And your Orators shew, that they, by themselves and their agents, have repeatedly applied to the said T. H. and his said copartners, to pay to them, as assignees as aforesaid, the residue of the aforesaid purchase money, after satisfying their own debt, together with interest thereon, from the time they received the same. And your Orators well hoped that the said Defendants would have complied, &c. but now so it is, &c. refuse so to do. And the said T. H. L. M. &c. &c. pretend, that the monies produced by the sale of the said manor and premises were to an inconsiderable amount, and not sufficient, after deducting the aforesaid sum of £ , to pay and satisfy the debt due to them, whereas your Orators charge the contrary of such pretences to be the truth, and so it would appear, if the said Defendants T. H. L. M. &c. &c. would set forth, as they ought to do, a full and true account of all and every the dealings and transactions between the said Defendants and the said C. H. H., and of what is due to the said Defendants in respect thereof; and also a full and true account of the monies received by them from the sale of the said manor and premises, and of their application thereof. And your Orators further charge, that the said other Defendants severally claim some interest in the said residue of the said purchase money now in the hands of the said T. H. and his said copartners, but how they make out the same they respectively refuse to discover. All which actings, doings, &c. To the end, &c.

Interrogating Part.

Whether the said C. H. H. was not, in and before the month of , seized in fee-simple, or otherwise well entitled, to him and his heirs, subject as aforesaid, of and in the manor, lands, and premises hereinbefore mentioned, or some and what part thereof, or of and in some other, and what lands and premises, and whether such indentures of lease and release as are hereinbefore stated to bear date respectively the, &c. were not made and executed between such parties, and to such purport and effect as hereinbefore set forth, or some other indentures of lease and release, of some other, and what date, between some other parties, and whom, to such or the like, or some other and what purport and effect; and

and whether upon the credit of the aforesaid security, the said T. H. and his said copartners, or any and which of them, did accept any and what bills drawn upon them, or some, or one, and which of them, by the said C. H. H. ; and whether to the amount of £ , or to what amount, over and above the money of the said C. H. H. in the hands of the said T. H. and his said copartners ; and whether when the same became due, the said C. H. H. did or not provide them with money for the payment of the said bills, or any and which of them ; and whether the said T. H. and his said copartners did take up and pay the same, or any and which of them, with their own proper monies or how otherwise ; and whether the said T. H. and the said Defendants his copartners, with the privity and approbation of the said C. H. H. and E. A. his wife, did not cause the said manor and premises to be put up to sale by public auction, at or about the time hereinbefore mentioned, or at some other time, and when ; and whether not by Mr. C. or by whom ; and whether the same were not then sold to the said E. R. for the sum of £ , or at what other price ; and whether the said E. R. was not the highest bidder at the said sale, for the said sum of £ , or how otherwise ; and whether after the said sale, and on or about the, &c. a commission of bankrupt under the great seal of Great Britain was not awarded and issued against the said C. H. H. ; and whether he was not thereupon duly found and declared a bankrupt by the major part of the commissioners in and by the said commission named and authorized, or how otherwise ; and whether your Orators were not duly chosen assignees of his estate and effects ; and whether the usual assignment of his personal estate, and a bargain and sale of his real estate was not duly made to your Orators by the major part of the commissioners in the said commission named, or how otherwise ; and whether the said manor and other premises were not duly conveyed to the said E. R. by such indentures of lease and release as aforesaid, or by some other and what indentures ; and whether the said price or sum of £ , or some other and what sum was not paid by the said E. R. to the said T. H. and his said copartners, or one and which of them ; and whether the said T. H. and his said copartners did not afterwards pay the sum of £ , or some other and what sum, part thereof, as or for the consideration or value of the life estate to which the said E. A. H. was entitled in remainder in the said manor and premises as aforesaid, or how otherwise ; and whether the said T. H. and the said Defendants his copartners have not ever since retained, and do not now retain in their hands, the residue of the said sum of £ , and if so, why and for what reason ; and whether, after satisfying their own debts, the same doth not amount to between £ and £ , and to what sum in particular ; and whether they have not from time to time, or at some time or times, and when, mixed such residue, or some and what part thereof, with their, or some, or one, and which of their own monies ; and whether they have not, and when, and for how long, employed the same, or some and what part thereof, in their trade or business of bankers, or otherwise, and how made interest thereof, or some and what part, or how otherwise ; and whether your Orators have not made such applications to the said Defendants as hereinbefore mentioned, or some other and what applica-
tions

tions to such or the like, or some other and what effect; and whether they have not respectively refused to comply therewith, and if so, why and for what reason; and that the said Defendants may set forth a full and true account of all and every the dealings and transactions between the said Defendants, or either of them, and the said C. H. H. and of what is due to the said Defendants in respect thereof; and also a full and true account of all and every the sum and sums of money which have or hath been received by them, or either of them, or by any other person or persons by the order or for the use of them, or either and which of them, for or in respect of the produce or money arising by sale of the said manor and premises, or any part thereof, and when and from whom all and every such sums were respectively received, and how the same were applied.

Prayer.

And that the said Defendants may answer the premises; and that an account may be taken of the monies received by the said Defendants T. H. and his said copartners, from the sale of the said manor and lands of G. and of their application thereof; and also an account of the dealings and transactions of the said Defendants with the said C. H. H. and of the debt due to them in respect thereof, and secured by the aforesaid manor and premises; and that the balance which shall appear to be due from them upon the accounts aforesaid, together with interest upon such balance from the time the said purchase monies were received by them as aforesaid, may be paid to your Orators. And for further relief, &c.

J. L.

Bill by Assignee of Bankrupt to have an Assignment of Lease of Premises delivered up to be cancelled, which the Bankrupt assigned to the Defendant a short Time previous to his Bankruptcy. Charge for want of valuable Consideration.

Humbly complaining, sheweth unto your Lordship, your Orator S. S. of, &c. the assignee of the estate and effects of T. D. late of, &c. that by an indenture of lease, bearing date on or about the day of , one I. N. of, &c. demised unto the said T. D. messuages or tenements, then, &c. then in the occupation of the said T. D. with the appurtenances, to hold from the day of , for the term of years, under and subject to the payment of the yearly rent of £ , and to the performance of the several covenants, conditions, and agreements therein contained, as in and by the said indenture of lease, which is now in the custody or power of W. C. of, &c. the Defendant hereinafter named, reference being thereto had, will more fully appear. And your, &c. that in or about, &c. the said T. D. being insolvent and unable to pay his creditors, and well knowing that a commission of bankruptcy would speedily be issued against him, the said T. D. concerted and
agreed

agreed with the said Defendant W. C. to assign to him the said indenture of lease for a nominal consideration of £ , to be expressed in the deed of assignment; and the said T. D. caused a deed of assignment to be prepared accordingly by his own solicitor, and the same was dated on, &c. and was executed by the said T. D. on the day of the date thereof; and the said T. D. then, or about that time, delivered the said indenture of lease and assignment to the said Defendant. And your Orator sheweth, that the said W. C. did not in fact pay to the said T. D. the said sum of £ , and that the said assignment was so made in order to prevent the just creditors of the said T. D. from having the benefit of the said lease in case of his bankruptcy, and that the said Defendant might hold the same in trust for the said T. D. or some part of his family, or for the joint benefit of the said T. D. and the said Defendant. And your, &c. that on or about, &c. a commission of bankrupt under the great seal of Great Britain was awarded and issued against the said T. D., &c. (*state commission*) as in and by the said commission, and the proceedings had thereupon, when produced, will appear. And your, &c. that he hath by himself and his agents repeatedly applied to the said Defendant W. C. and hath requested him to deliver up the said assignment to be cancelled, and also deliver up to your Orator the said indenture of lease, in order that your Orator may dispose of the same for the benefit of the just creditors of the said T. D. with which just and reasonable request your Orator well hoped, &c. But now, &c. hath absolutely refused so to do. And the said Defendant pretends, that he duly paid to the said T. D. the said consideration of £ at the time of his executing the said assignment, whereas your Orator charges the contrary thereof to be the truth as aforesaid. And your Orator charges, that the said Defendant is a person in poor circumstances, and had not at that time a sum of £ in his possession or power. And the said Defendant refuses to set forth in what manner he paid the said sum of £ , and when and from whom he received or obtained the same, or by what means he was enabled to make such payment. And at other times the said Defendant pretends, that the said T. D. was indebted to him at the time of executing the said assignment in the said sum of £ , and that the said assignment was executed by the said T. D. in consideration of the said debt; but when and how the said T. D. so became indebted to him the said Defendant refuses to discover. And your Orator charges, that if the said T. D. had at any time been indebted to the said W. C. he had by some means fully satisfied the said debt. And your Orator charges, that the said T. D. first proposed to the said Defendant, the making of the said assignment, and that the said Defendant, at the time the same was executed, knew, or believed, or had some reason to believe or suspect that the said T. D. was in embarrassed circumstances, and was about to become bankrupt, and the said Defendant accepted such assignment with a view to the advantage of the said T. D. or some part of his family. And your Orator charges, that it was agreed or understood, that the said Defendant was not to hold the said lease for his own sole benefit, and as his own sole property. And your Orator further charges, that the said lease was of much greater value than the

the said sum of £ , and was in fact worth £ . And your Orator further charges, that the said T. D. caused the said assignment to be registered on the day it was executed, and that the solicitor of the said T. D. at his request, paid an expedition fee for the registering thereof. All which actings, &c. To the end, &c.

Interrogating Part.

Whether an indenture of lease was not made of such date and to such effect as hereinbefore particularly mentioned, or some other, and what indenture of some other, and what date, to such or the like or some other and what effect, and whether such indenture of lease is not, or lately was not, and when last in the custody or power of the said W. C. or in the custody or power of some other person, and whom, and what is become thereof; and whether, in or about the latter end of the month of or at some other time, and when, the said T. D. was not insolvent, and whether he was not unable to pay his creditors; and whether he did not know, believe, or suspect, that a commission of bankruptcy would be speedily issued against him; and whether he, the said T. D. did not concert and agree with the said Defendant W. C. to assign to him the said indenture of lease, and what was the particular agreement made between them in that respect, and all and every the terms thereof; and whether not for a nominal consideration of £ or some other, and what sum, to be expressed in the deed of assignment, or for what other consideration; and whether the said T. D. did not cause some, and what deed of assignment, to be prepared accordingly by his own solicitor, or by some other person, and whom, or who else caused the said deed of assignment to be prepared, and by whom was it prepared; and whether the same was not dated on the of , or when was the same dated; and whether it was not executed by the said T. D. on the day of the date thereof, or when else was it executed, and whether the said T. D. did not then or at some other time, and when, deliver the said indenture of lease and assignment, or one and which of them, to the said Defendant, or to some other person, and whom; and whether the said W. C. did in fact, and when, pay to the said T. D. the said sum of £ or any other and what sum, as the consideration of the said assignment; and whether the said assignment was not so made in order to prevent the just creditors of the said T. D. from having the benefit of the said lease in case of his bankruptcy, and whether not, that the said Defendant might hold the same in trust for the said T. D. or for some and what part of his family; and whether not for the joint benefit of the said T. D. and the said Defendant, or either and which of them, or what in particular were the reasons and inducements for the said T. D. to make, or the said Defendant to accept the said assignment; and whether, at or about the time hereinbefore mentioned, or at some other time, and when, a commission of bankrupt under the great seal of Great Britain, was not awarded and issued against the said T. D. and whether he was not thereupon duly found and declared a bankrupt by the major part of the commissioners in and by the said commission named and authorized; and whether your Orator was not duly chosen the

assignee of his estate and effects; and whether the usual assignment of his estate and effects was not duly made to your Orator by the major part of the commissioners in the said commission named; and whether your Orator hath not made such applications to the said Defendant W. C. as aforesaid, or some other and what applications, to the like, or some and what effect; and whether he hath not refused to comply therewith, and for what reason; and whether the said Defendant is not a person in poor circumstances; and whether he had at that time a sum of £ in his possession or power. And if the said Defendant shall pretend that he duly paid to the said T. D. the said consideration of £ , then that he may set forth in what manner he paid the said sum of £ and when and from whom he received or obtained the same, or by what means he was enabled to make such payment. And if the said Defendant shall pretend that the said T. D. was indebted to him at the time of executing the said assignment in the said sum of £ , and that the said assignment was executed by the said T. D. in consideration of the said debt, then that he may discover and set forth when and how the said T. D. so became indebted to him; and whether, if the said T. D. had at any time before been indebted to the said W. C., he had not by some and what means fully satisfied the said debt; and whether the said T. D. did not first, and when, propose to the said Defendant, the making of the said assignment, and what was said by the said T. D. and the said Defendant upon that occasion, and what passed thereupon between them; and whether the said Defendant did not, at the time the same was executed, know or believe, and whether he had not some, and what reason, to believe or suspect, that the said T. D. was in embarrassed circumstances; and whether not that he was about to become bankrupt; and whether the said Defendant did not accept such assignment with a view to the advantage of the said T. D. or for some and what part of his family, or for what other reason or motive; and whether it was not agreed or understood by and between the said T. D. or one and which of them, that the said Defendant was not to hold the said lease for his own sole benefit and as his own sole property, and what in particular was understood and agreed between them in that respect; and whether the said lease was not of greater, and how much greater value than the said sum of £ ; and whether it was not in fact worth £ ; and whether the said T. D. or some other person, and whom, did not cause the said assignment to be registered on the day it was executed; and whether the solicitor of the said T. D. or some other person, and whom, did not at his request or otherwise, pay some and what expedition fee for the registering.

Prayer.

And that the said Defendant may answer the premises. And that the said assignment of the said lease of the day of may be declared void, as fraudulent against your Orator and the rest of the creditors of the said bankrupt; and that the said W. C. may be decreed to deliver up the said assignment to your Orator to be cancelled.

cancelled. And may also deliver up to your Orator the said indenture of lease. And for further relief.

Pray Subpœna against W. C.

Bill by Assignees of Bankrupt against Executors of Bankrupt's Father, for an Account, and that the Residue of the Estate may be secured and invested for Benefit of his Creditors.

Humbly complaining, shew unto your Lordship, your Orators R. H. of _____, J. H. G., of _____, and R. M., of _____, that T. B., late of _____, duly made and published his last will and testament in writing, bearing date on or about the _____ day of _____, and thereby, amongst other things, gave and bequeathed, &c. as in and by, &c. And your, &c. that the said Testator departed this life on or about the _____ day of _____, without having altered or revoked his said will, leaving the said M. B. his widow, and the said W. B. and T. B. in the said will named, him surviving; and the said M. B. hath, since his death, duly proved the said will in the proper Ecclesiastical Court, and taken upon herself the Executorship thereof; and the said M. B. together with the said H. B. and R. A. who interfered in the administration of the property of the said Testator, under and by virtue of the trusts of the said will, possessed themselves of the personal estate and effects of the said Testator to a large amount and value, and greatly more than sufficient to pay and satisfy his funeral expenses, just debts and legacies, the said M. B., H. B. and R. A. lent and advanced to the said W. B. the son of the said Testator, another Defendant hereto, the sum of £ _____, part of the said Testator's residuary estate; and they also lent and advanced to other persons, other parts of the said Testator's residuary estate upon personal security, in the place of investing the same in government or real security; and the said Defendants permitted a part of the said Testator's estate, which was owing at the time of his death upon personal security, to remain outstanding upon such security, whereby the same has been lost, and in particular, a sum of £ _____ and interest due from I. C. of _____ was permitted to remain unpaid, although the same might have been recovered by the said Defendants after the death of the said Testator, if due diligence had been used therein, and the said I. C. hath lately absconded, and is become insolvent. And your, &c. that a commission of bankrupt, under the great seal of Great Britain, bearing date on or about, &c. hath been awarded and issued against the said T. B. the son, who hath been thereupon duly found and declared a bankrupt, and the usual assignment of his estate and effects hath been duly made and executed to your Orators, who were duly chosen by the creditors, as the assignees of the said bankrupt's estate. And your, &c. that they have by themselves and their agents repeatedly applied to the said M. B. H. B. and R. A. and requested them to come to a full and true account with your Orator for the personal estate and effects of the

said Testator, and to invest and secure the clear residuary estate of the said Testator, possessed or received by them, or which, but for their wilful default or neglect might have been so possessed or received, so that the same might be forthcoming at the death of the said M. B. for the benefit of your Orators as assignees as aforesaid, and such other persons as may be interested therein. And your Orators well hoped, &c. But now, &c. absolutely refuse so to do; and the said Defendants at some times pretend, that the personal estate and effects of the said T. B. the said Testator, were small and inconsiderable, and not more than sufficient to pay and satisfy his funeral expenses, debts and legacies, and that they have applied all such personal estate and effects in a due course of administration. *Charge contrary*, and so it would appear if the said Defendants would set forth, as they ought to do, a full and true account of all and every the personal estate and effects of the said Testator, which have been possessed or received, or but for their wilful default or neglect might have been possessed or received by them, the said Defendants, or either of them, or by their or either of their order, or to their or either of their use, and of their application thereof. And your Orators further charge, that when the clear residuary estate of the said Testator is ascertained, a moiety thereof ought to be invested in this honorable Court, to the account of "the moiety of T. B. the son, in the residuary estate of the said Testator T. B." in order that your Orators, as the assignees of the said T. B. for the benefit of his creditors, may be the better able to sell and dispose of the expectant interest of the said T. B. in such moiety, upon the death of the said M. B.; and your Orators charge, that in computing such moiety, credit ought to be given for the £ advanced by the said Defendant to the said W. B. as aforesaid, as being advanced out of the moiety to which the said W. B. will be entitled upon the death of the said M. B. And your Orators further charge, that the said Defendant M. B. ought to make out an inventory of the said Testator's household goods, plate, linen and china, to which she is entitled for her life, and such inventory ought to be signed by the said M. B. and deposited with one of the Masters of this honorable Court for the benefit of all parties interested therein. All which, &c. To the end, &c.

Prayer.

And that the said Defendants may answer the premises. And that an account may be taken of the personal estate and effects of the said Testator possessed by, or come to the hands of the said Defendants M. B. H. B. and R. A. or either of them, or to the hands of any other person or persons by their or either of their order, or to their or either of their use, or which, but for their wilful default or neglect, might have been possessed or received by them. And also an account of the said Testator's funeral expenses, debts and legacies, and that the said Testator's personal estate may be applied in payment thereof in a due course of administration. And that the residue and clear surplus thereof may be ascertained and secured by and under the direction of this honorable Court; and that one moiety thereof may be carried to an account of "the moiety of T. B. in the residuary estate of the Testator T. B." subject to the payment

of the interest or dividends therein to the said M. B. during her life. And that the said Defendant M. B. may make out an inventory of the said household goods, plate, linen, china, and other effects of the said Testator, given to the said M. B. for her life, and that such inventory may be signed by the said M. B. and deposited with one of the Masters of this honorable Court. And that your Orators may have such further or other relief in the premises, as to your Lordship shall seem meet and this case may require. May it please, &c.

Pray Subpœna against M. B.

H. B. R. A. and W. B.

SECT. XI.—BILLS FOR CREDITORS.

Bill by Simple Contract Creditors, against Administrator, and in case Personals insufficient, to have Assets marshalled.

Humbly complaining, shew unto your Lordship, your Orators A. B. of, &c. and C. D. of, &c. on behalf of themselves, and all other the simple contract creditors of E. F. late of, &c. deceased, who shall come in and contribute to the expense of this suit, that the said E. F. departed this life on or about, &c. and was in his life-time, and at the time of his death, justly and truly indebted unto Plaintiff A. B. in the principal sum of £ , with an arrear of interest thereon, upon and by virtue of his the said E. F.'s promissory note of hand in writing, bearing date, &c. for the securing the payment of the said sum of £ to said Plaintiff, with interest for the same, at and after the rate of £ per annum, as by said promissory note, &c.

That the said E. F. in his life-time, and at the time of his death, was also justly and truly indebted unto Plaintiff C. D. in the sum of £ and upwards, for goods sold and delivered, and monies paid, laid out and expended, to and for his the said E. F.'s use.

That the said E. F. was in his life-time, and at the time of his death, possessed of, interested in, and entitled unto a very considerable personal estate, consisting of divers estates and premises, held upon lease for terms or a term of years, and other chattels, real and personal, and of various other particulars to a large amount and value in the whole, and more than sufficient to have paid and satisfied all his just debts and funeral expenses. And the said E. F. was also in his life-time, and at the time of his death seized, or well entitled unto some considerable real estates, lands, tenements, and hereditaments, situate, &c. and particularly of or to divers freehold houses or tenements in L. aforesaid. And also to a close or parcel of land in F. in the county of L. of some considerable yearly value respectively.

That the said E. F. being so seized and possessed departed this life at or about, &c. intestate and without issue, leaving E. F. of, &c. his eldest brother and heir at law, and S. F. of, &c. his widow and relict, and that the said S. F. upon the death of the said intestate, applied for and obtained letters of administration of his personal estate and effects to be duly granted to him by and out of the proper Ecclesiastical Court in that behalf, and the said S. F. thereby became and is the legal personal representative of the said E. F.

That under and by virtue of such letters of administration, she the said S. F. or some person or persons by her order or for her use, hath or have possessed, got in, and received the whole or the greatest part of the said intestate's personal estate and effects, consisting of the various particulars aforesaid, and to a considerable amount in the whole, and sufficient

cient or more than sufficient to satisfy and pay all his, the said intestate's funeral expenses and just debts. And the said E. F. the said intestate's heir at law, upon, or soon after the decease of the said intestate, entered upon and possessed himself all his real estates and premises, and hath ever since been in such possession, and he or some person or persons by his order, or for his use, hath or have ever since been in the receipt of the rents and profits thereof, and the said E. F. now is in such possession and receipt.

That since the death of the said intestate, the said E. F. hath paid unto Plaintiff A. B. the sum of £ , in part discharge of his said debt or sum of £ , but that the remainder thereof, together with an arrear of interest on the whole of the said debt, now remains justly due and owing unto Plaintiff A. B. and the whole of the said sum of £ and upwards, does also still remain justly due and owing unto Plaintiff C. D. from the said intestate's estate.

That the said S. F. having possessed the said intestate's personal estate and effects, as aforesaid, have applied, &c. and requested her to pay and satisfy unto Plaintiffs their said respective demands, by and out of the said intestate's personal estate and effects, if the same were sufficient for that purpose. And Plaintiffs have also applied unto said E. F. and requested him, that if the said Testator's personal estate and effects were not sufficient, by reason of any application thereof, or of any part thereof, to the payment of any specialty creditors of the said intestate, that he would consent that the deficiency thereof might be raised by sale of a competent part of the said intestate's real estate, or that the said intestate's real and personal assets might be marshalled, and his personal estate and effects applied in payment of his simple contract debts, and his specialty debts paid out of his real estate. And Plaintiffs well hoped, &c. But now, &c.

Pretend, that the said E. F. deceased, was not at the time of his death indebted to Plaintiffs or either of them in any sum or sums of money whatsoever, and that he never made or signed any such promissory note of hand to Plaintiff A. B. as aforesaid.

Charge contrary, and that the said intestate did duly make and sign such promissory note of hand in writing to him, for securing his said debt theretofore justly due and owing thereon, with interest, at and after the rate as before mentioned.

Charge, that the whole of their said several debts and demands were, together with a large arrear of interest on Plaintiff A. B.'s said debt, justly due and owing to Plaintiff at the time of his the said E. F.'s decease, and which said Defendants will at other times admit, but then S. F.

Pretends, that personalty insufficient, and applied in payment of specialties, but what specialty debts in particular she pretends to have paid thereout, refuses to discover.

Charge contrary, and Plaintiffs are advised, and humbly insist, that if said personal estate and effects of said intestate have been exhausted by the said S. F. in paying or discharging of any of his specialty debts, then that Plaintiffs, and the other simple contract creditors of the said intestate, ought, and are entitled, in a court of equity, to have the said intestate's assets marshalled, and to stand in the place of such specialty creditors, upon his real estates, and to have satisfaction for their respective

spective demands thereout to such amount, and for so much as such specialty creditors shall have received out of the said Testator's personal estates, and that such real estate, or a competent part thereof, ought to be mortgaged or sold for that purpose; and the said intestate's personal assets ought to be applied solely in discharge of Plaintiffs, and other the simple contract creditors of the said intestate. But, nevertheless, the said Defendants, under such or the like pretences as aforesaid, refuse to pay Plaintiffs, or either of them, their said demands; and the said Defendants refuse to come to an account for the real or personal assets of the said intestate.

Charge, that said Defendants E. F. hath possessed the title deeds and writings belonging to and concerning the real estate of the said intestate, and which he refuses to produce or discover. All which, &c. To the end, &c.

Prayer.

That an account may be decreed to be taken of the monies due to Plaintiffs, in respect of their said several demands; and that an account may be also taken of the said intestate's personal estate and effects possessed or received by, or come to the hands of the said Defendant, S. F. or of any other person or persons, by her order or for her use. And also, an account of the rents and profits of the said intestate's real estate, possessed or received by or by the order, or for the use of the said Defendant E. F.; and that Plaintiffs may be paid their said respective demands out of the said intestate's personal estate, if the same shall be sufficient for that purpose, and to pay all other the said debts of the said intestate, as well by specialty as by simple contract. But if the same shall be insufficient for that purpose, then that the said intestate's specialty debts may be raised and paid out of his real assets, and the simple contract debts of the said intestate, paid out of his personal assets; and that proper directions may be given in that behalf. And if any of the said intestate's estate shall be, or appear to have been applied in payment of the specialty debts of the said E. F. the intestate, then that Plaintiffs, and all other his simple contract creditors, may be declared to be entitled to a satisfaction out of his real estates, and to such amount as specialty creditors shall have received out of his the said intestate's personal estate and effects; and that a sufficient part of the said real estates may be mortgaged or sold, for raising the same; and that all proper parties may be decreed to join in such mortgage or sale; and that, by and out of the monies to arise therefrom, Plaintiffs, and all other the simple contract creditors of the said intestate, may be respectively paid and satisfied their said several demands and their costs of this suit; and that all the title deeds and writings relating to the said estate may be produced, and all proper and necessary directions given for effectuating the several purposes aforesaid, and the payment of Plaintiffs said demands. And for further relief, &c.

E. K.

A Bill by Specialty Creditor, against Administrator and Heir at Law of Intestate, for Sale of Mortgage Premises, to pay off Mortgage, as far as they will extend, and in case of Deficiency, to be admitted a Creditor on the general Assets of Intestate; and also for Payment of an Annuity, secured by other Premises, and that they may be sold, and in case of Deficiency, to be admitted a Creditor on the general Assets of Intestate. Judgment having been entered up.

Humbly complaining, sheweth unto your Lordship, your Orator, H. of, &c. on behalf of himself and all other the creditors, &c. that by indentures of lease and release, bearing date respectively the and days of , your Orator, in consideration of a certain post obit security, for the sum of £ therein mentioned, conveyed to the said T. H. the fee-simple and inheritance of freehold unfinished houses, situate and being, &c. And your Orator sheweth, that by indenture, bearing date on the same day of the said T. H. in consideration of the sum of £ , then lent and advanced by your Orator to the said T. H. granted and demised to your Orator of the beforementioned houses, for the term of years by way of mortgage. And the said indenture contains the usual covenant for payment of the said £ and interest, and the usual proviso of redemption. And your Orator sheweth, that by a certain other indenture, bearing date the same day of the said T. H. granted and demised the other of the beforementioned houses, for the term of years, in trust for the further and better securing to your Orator, either from the receipt of the rents, or by sale or mortgage of the said last mentioned premises, an annuity or clear yearly sum of £ , for and during the natural life of your Orator, which had been before granted to your Orator by the said T. H. by a certain indenture, bearing date on or about the day of , as in and by the said several indentures, reference, &c. And your Orator further sheweth unto your Lordship, that the said T. H. departed this life on or about the day of intestate, and without issue, leaving T. H. of, &c. his only brother and heir at law, and the defendant hereinafter named, him surviving; whereupon the reversion of the said houses at aforesaid, descended to and became vested in the said T. H. subject to the said two terms aforesaid. And your Orator sheweth, that upon, or soon after the death of the said intestate, the said T. H. obtained letters of administration of the goods, chattels, personal estate and effects of his said late brother, to be granted to him by and out of the proper Ecclesiastical Court, and, by virtue thereof, hath possessed himself of the personal estate and effects of the said intestate to a considerable amount. And your Orator sheweth, that the said intestate, in his life-time, paid the interest due to your Orator upon the said mortgage, up to the day of , and the arrears of the said annuity up to the of , but the whole of the said principal sum of £ , together with all interest thereon, from the said day of , now remains due to your said Orator, as well as all the arrears of the said annuity, from the said day of .

And

And your Orator sheweth, that he is a judgment creditor of the said T. H. in respect of the said arrears of the said annuity, by virtue of a warrant of attorney, made and executed by the said T. H. at the time of granting the said annuity, and on which judgment hath been duly entered up by your Orator. And your Orator sheweth, that the said houses, comprized in the aforesaid mortgage, being an insufficient security, your Orator is advised that he is well entitled to have a sale of the said houses, and to have the produce thereof applied, as far as the same will extend, in payment of the said principal sum of £ and interest, and to be admitted as a specialty creditor against the general assets of the said intestate, for the deficiency; and that he is also well entitled to have a value put upon his said annuity, and in like manner to have a sale of the said other houses, demised as aforesaid, for the security of the said annuity, and to have the produce thereof applied, as far as the same will extend, in satisfaction of the value which shall so be set on the said annuity, and of the arrears due thereon, and to be admitted as a judgment creditor against the general assets of the said intestate, in respect of any deficiency. And your Orator sheweth that he hath, by himself and his agents, repeatedly applied to the said T. H. for the purposes aforesaid. And your Orator well hoped, &c. But now, &c. absolutely refuses so to do. And the said Defendants, at some times, pretends, that the personal estate of the said intestate is small and inconsiderable. Whereas your Orator charges the contrary thereof to be the truth; and so it would appear, if the said Defendant would set forth, as he ought to do, a full and true account of the said personal estate and effects of the said intestate, and of his application thereof. All which, &c. To the end, &c.

Prayer.

And that the said Defendant may answer the premises; and that an account may be taken of the principal sum and interest remaining due to your Orator on the aforesaid mortgage security, and that the said mortgaged premises may be sold, and the produce thereof applied, as far as the same will extend, in satisfaction of what shall be so found due; and that your Orator may be admitted as a creditor against the general assets of the said intestate, in respect of the deficiency; and that a value may be set upon the said annuity of £ , and that an account may also be taken of the arrears of the said annuity, and that the said houses, demised as aforesaid, for the security of the said annuity, may in like manner be sold, and the produce thereof applied, as far as the same will extend, in satisfaction of the value so set upon the said annuity, and of the said arrears, and that your Orator may be admitted as a creditor against the general assets of the said intestate, in respect of the said deficiency, and that an account may be taken of the said intestate's personal estate and effects, possessed or received by the said Defendant, or by any other person or persons, by his order, or for his use; and also an account of the said intestate's funeral expenses and just debts, and that the said personal estate and effects may be applied in payment of what shall remain due to your Orator, in respect of the matters aforesaid, and of the other creditors of the said intestate, in a due course of administration. And for further relief, &c. J. L.

Bill by a Bond Creditor, for Payment out of a Trust Estate, devised on Failure of personal Assets, that Decds, &c. may be set out.

Humbly complaining, sheweth unto your Lordship, your Orator, A. B. a creditor of the right honorable R. C. heretofore of, &c. and late Lord Chief Justice of the Common Pleas in , on behalf of himself, and all other the creditors of the said R. C. who shall come in and seek relief by, and contribute to the expense of this suit; that R. C. having borrowed of, and being indebted unto Plaintiff in the sum of £ , he, for securing the re-payment thereof, with lawful interest for the same, duly executed a certain bond or obligation in writing, bearing date, &c. whereby he bound himself, his heirs, executors, administrators, and assigns, in the sum of £ , with a condition there under written, for making the same void, on payment by the said R. C. his heirs, &c. of the said sum of £ , with lawful interest for the same, at a time therein mentioned, and long since past, as in and by, &c. And your, &c. that the said R. C. was, in his life-time, and for some time before, and until the time of his death, seized or otherwise well entitled in fee simple, of or to the manor or lordship of E. together with divers messuages or tenements, farms, lands, and hereditaments, situate and being within the parishes or townships of E. A. and H.; and also of or to the manors or lordships of A. and W. and divers messuages, farms, lands, tenements, and hereditaments, situate and being in the several townships of A. W. B. &c. and elsewhere, in the county of L. of a large value in the whole; and also possessed of a considerable personal estate and effects. And that the said R. C. being so seized, possessed, or entitled, and being of sound mind, memory, and understanding, duly made and published his last will and testament in writing, bearing date on or about, &c. and which was executed by him, and attested in such manner as by law is required, for devising and passing real estates; whereby, after declaring it to be his will and mind, that, &c. (debts and legacies to be first paid out of personalty, and devised *inter al.* all his manors of A. and W. to his brother E. C. for life, remainder to trustees; remainder to his nephew R. C. for life; remainder to trustees; remainder to the first and other sons of N. C. in strict settlement; remainder to all his nephews successively, for life, and their issue, in tail; remainder to Testator's own right heirs for ever, devised the manors of E. A. and H. to his said brother E. C. upon trust, to sell or mortgage, in aid of his personalty, surplus to be laid out in lands, and settled to same uses as the manors of A. and W. and appointed his said brother E. C. and his said nephew R. C. executors of his said will). And your, &c. that the said Testator, by a codicil to his will, annexed, bearing date, &c. which was also executed and attested, &c. after reciting, &c. as in and by, &c.

That the said Testator departed this life on or about, &c. without revoking or altering his said will, save by the said codicil, and without revoking or altering the said codicil, and without leaving any issue, and leaving the said E. C. his brother, his heir at law, and the said R. C. now sir R. C. bart., R. C., W. C., and I. C., him surviving.

That Testator was, at the time of his death, indebted unto Plaintiff in the said principal sum of £ upon the aforesaid security, and also to divers

divers other persons, upon sundry different securities, to a large amount in the whole.

That upon Testator's death E. C. and R. C. duly proved, &c., and by virtue thereof, possessed all the personal estate and effects of or belonging to Testator at the time of his death, or so much thereof as they were able, to a considerable amount in the whole, and which, as is alledged, were very insufficient for the payment of Testator's debts, and all Testator's debts being made a charge upon Testator's estates in E., A., and H., and which were more than sufficient for the payment thereof, and all and most of the said debts being due and owing upon securities, Testator's Executors applied all or the greatest part of Testator's personal estate and effects in the payment of the legacies given by the Testator's will, all of which have been long since paid and satisfied.

That immediately upon or soon after Testator's death E. C. entered upon and took possession of all the real estate whereof Testator died seized of, and continued in possession and receipt of the rents and profits thereof until the time of his death.

That E. C. departed this life on or about, &c. leaving the said sir R. C., bart., his eldest son and heir at law, and having first made and published his last will and testament in writing, and thereby appointed his sons, the said R. C. and W. C., two of the nephews and devisees named in the will of Testator R. C., Executors thereof. As in and by, &c.

That upon the death of E. C., R. C. and W. C., proved, &c., and by virtue thereof, possessed themselves of all the personal estate and effects, whereof the said E. C. died possessed, to a considerable amount and value in the whole, and more than sufficient for the payment of his debts, particularly to answer and satisfy so much of the personal estate and effects of R. C. as was possessed by E. C. in his life-time, and they have likewise possessed some parts of the specific personal estate and effects of or belonging to the said Testator R. C.

That upon the death of E. C. sir R. C., by virtue of said Testator R. C., his uncle, entered upon and took possession of all the said real estates so devised by will of Testator R. C. as aforesaid, particularly estates and premises at E., A., and H. aforesaid, and he ever since hath been and still is in possession or receipt of the rents and profits thereof.

That the whole of said principal sum of £ , with an arrear of interest for the same, still remains due and owing to Plaintiff upon his aforesaid security, and that divers other of the debts due and owing from Testator R. C., at the time of his death, still remain unpaid.

That Plaintiff hath at several times applied to the said R. C., W. C., and R. C., to pay to Plaintiff the principal and interest due on the aforesaid bond, out of the estate and effects of said R. C., and that divers other applications have also been made unto them by the several other unsatisfied creditors of Testator for payment of their several debts. And Plaintiff and such several other creditors well hoped, &c. But now, &c. sir R. C., R. C., and W. C., the trustees and creditors of sir R. C., and the honorable I. D. S., commonly called lady I. D. S. combining, &c. absolutely refuse so to do; and the said R. C. pretends, that Plaintiff did not lend or advance to the Testator R. C. the aforesaid sum of £ , or any part thereof, and that he never executed such bond

to Plaintiff, or that the said debt, and all interest due thereon, have been long since paid and satisfied, and that no money is now owing to Plaintiff in respect thereof. *Charge contrary*, and so confederate will at other times admit, but then the said sir R. C., R. C., and W. C., pretend that the personal estate and effects which the said R. C. was possessed of or entitled unto, at the time of his death, were but of inconsiderable value in the whole, and that he was indebted to sundry persons to a considerable amount; and that all, or the greatest part of his personal estate and effects which have been possessed by sir R. C. and E. C. in his life-time, or by the said sir R. C. and W. C. since his death, have been paid and applied in a due course of administration, and that no part of Testator's personal estate and effects now remain in their hands undisposed of; and the said R. C. and W. C. pretend that the said E. C. never delivered in the executorship of the said Testator R. C., and that he never possessed any part of his personal estate or effects; at other times admitting the contrary to be true, they pretend, that the said E. C. was, at the time of his death, indebted to sundry persons in several large sums of money to a considerable amount in the whole, and that the personal estate and effects of the said E. C. were but of inconsiderable value, and that the same have been applied in discharge of such debts, and that only a small part thereof remains undisposed of and not near sufficient to answer Plaintiff's demands thereon. *Charge contrary*, and Plaintiff is advised, and humbly insists, that R. C. and W. C. ought either to admit assets of E. C. come to their hands or use sufficient to answer Plaintiff's demands thereon, or to account for the personal estate and effects of E. C., which have been possessed or received by them, or either of them; and Plaintiff is also advised, and humbly insists, that if the personal estate and effects of Testator R. C., which have been possessed, or received by, or come to the hands of sir R. C. or E. C., in his life-time, or of R. C. or W. C., since his death, should be found insufficient to answer the aforesaid debt due and owing to Plaintiff, and the several other debts due and owing to the rest of the unsatisfied creditors of the said Testator R. C., such deficiency ought to be made good out of his real estate, situate at E., A., and H., by his said will or codicil devised to be sold or mortgaged for payment of his debts, in aid of his personal estate, and that the same ought to be sold or mortgaged for that purpose, and that the rents thereof become due since his death ought to be accounted for; but then said R. C. pretends, that the will and codicil of the said Testator R. C. were not executed and attested in such manner as by law is required for devising and passing real estate, and that, therefore, on his death, all his real estates, including his said real estates at E., A., and H., descended or came to the said E. C., the said Testator's brother, as his heir at law; and that confederate sir R. C. is the son and heir at law of said E. C., and as such the heir at law of Testator R. C., his uncle, is now entitled thereto. *Charge the contrary* of such pretences to be true, but then confederates pretend R. C., W. C., and I. C., claim to be successively entitled, by virtue of their said late uncle the Testator's will, to such parts of the said estate at E., A., and H., charged with the payment of Testator's debts in aid of his personal estate, as shall remain undisposed of for that purpose, as tenants for life in succession, with remainder to their first and other sons successively, in tail male, expectant on the death of sir R. C., without issue

male,

male, of which neither the said R. C. nor confederates, his brothers, or any of them, have any at present; and the said trustees and creditors alledge, that confederate sir R. C. hath by some deeds or deed by him duly executed, conveyed, and assigned all his right, title, and interest of and in the said estates and premises, situate at E., A., and H., together with other estates therein mentioned, so devised to him by Testator R. C. as aforesaid, unto or in trust for the benefit of them, or some of them, and the rest of the said R. C.'s creditors, but they refuse to discover the nature or material contents of such conveyance or assignment, or what right or interest they have or claim to or in the said estates by virtue thereof. And said lady I. D. S. pretends, that she hath some mortgages or mortgage, or other incumbrances or incumbrance upon, or affecting said estates at E., A., and H., aforesaid, or some part thereof, but at same time refuses to discover the particulars of such mortgage or incumbrance, or how much is now due for principal, and how much due for interest thereof; and all Defendants, except sir R. C., refuse to join in any sale or mortgage of said estate and premises at E., A., and H. aforesaid, in order to raise money for the payment of Testator's unsatisfied creditors.

Pretend, that there are or is some other mortgages or mortgage, or other incumbrance or incumbrances, upon or affecting the said estates, or some part thereof, although they refuse to discover the particulars, or in whom the same are or is vested, and at other times they, or some, or one of them, claim some other right or interest to or in the said estates, or some part thereof, but at the same time refuse to discover the particulars thereof, or how or in what manner they derive or make out the same; and at some times they pretend that some other persons or person have or hath some right or interest therein, or in some part thereof, and they having got into their custody or possession the title deeds and writings relating thereto, they refuse to produce the same. All which, &c.

Inquiry.

And if the Defendant lady I. D. S. shall claim to have any mortgage or security upon, or affecting the said estates, or any part thereof, that she may set forth when and by whom, and by what deeds or writings or otherwise, and how and for what consideration, and for what sums the same were or was made, and what sum or sums of money are or is due thereon, and how much for principal and how much for interest, &c.

Prayer.

That an account may be taken of the money due and owing to Plaintiff for principal and interest on the said bond from the said Testator R. C.; and that an account may be also taken of all other the debts owing by the said R. C., at the time of his death, and remaining unpaid; and that all such debts or sums of money may be paid out of Testator's personal estate and effects, in case the same shall be sufficient for the payment thereof; and if the said sir R. C., R. C., and W. C., shall not admit assets of Testator R. C. sufficient to satisfy such debts, that an account may be taken of the personal estate

estate and effects of Testator R. C., and of the produce, interest, or income thereof which have been possessed or received by, or by the order, or for the use of Defendant sir R. C., and of said E. C., in his life-time, and since his death, of Defendants R. C. and W. C. respectively, or any or either of them; and that such personal estate and effects, and the produce thereof, may be applied in or towards payment and satisfaction of the said debts, as far as the same will extend in a due course of administration; and in case such personal estate and effects of Testator R. C. should be found insufficient for the purposes aforesaid, then that such deficiency may be raised by sale or mortgage of Testator's estate at E., A., and H., in the said county of L., pursuant to the directions of his said will and codicil, or a competent part thereof, and by and out of the rents and profits thereof become due since Testator's death; and for that purpose that the same estates, or a competent part thereof, may be sold or mortgaged pursuant to his said will, as this honorable Court shall direct, and that all proper or necessary parties may join in such sale or mortgage; and that the money to arise by such sale or mortgage, after payment thereof in the first place, of the money due and owing upon or by virtue of any mortgages or mortgage, or other incumbrances or incumbrance affecting the said premises, if any such there be, together with such rents and profits, may be applied in satisfaction of the remainder of Testator's debts remaining unsatisfied; and in order thereto that the title deeds and writings relating to the said real estates may be proved, and for the purposes aforesaid, that the rents and profits of the said estates, received by the said E. C. in his life-time, or by Defendant sir R. C. since his death, may be accounted for; and that the money which shall appear to have been received by the said E. C., for or in respect of the said rents, may be raised and paid out of his said assets, received by the Defendants R. C. and W. C.; and if said R. C. and W. C. shall not admit assets of said E. C. sufficient to answer Plaintiff's aforesaid demands thereon, in respect to the several matters aforesaid, that an account may be taken of the personal estate and effects of the said E. C., at the time of his death, which have been possessed or received by, or by the order, or for the use of said R. C. and W. C., or either of them, and also of his debts and funeral expenses. And for further relief.

J. S.

Bill by Trustees, as Creditors, against Executor of Debtor, who acted as the Receiver of the Rents of Lands which they held in Trust for the Algebra Lecturer in the University of Cambridge.

Humbly complaining, &c. A. B. and C. D. &c. on behalf of yourselves, and all the creditors of T. P. of, &c. but now deceased, who shall come in, &c. that your Orators, being seized of, or otherwise entitled

titled to certain lands, tenements, and hereditaments, situate at, &c. in trust, to pay the annual rents and profits thereof, as a salary to the Algebra Lecturer in the University of Cambridge, appointed the said T. P. to be the manager of the said estates, and the receiver of the rents and profits thereof, at a yearly salary of £ . And your, &c. that the last account settled by the said T. P. with your Orators, was, in respect of the said estates, up to and upon the balance of such accounts, there was due for the said T. P. to your Orators, as trustees as aforesaid, the sum of £ . And your, &c. that the said T. P. continued to be the receiver of the rents and profits of the said estates until his death, which happened about the month of , and the said T. P. not only received the rents of the said estates, which amounted to the yearly sum of £ , from up to inclusive, but the said T. P. also received from the sale of timber, cut and felled on the said estates, in the month of , the sum of £ , and several other sums of money from other falls of timber on the said estates, between and the time of his death. And your, &c. that the said T. P. remitted, in respect of his said receipts, subsequent to , several sums of money, amounting together to £ , and no more; so that at the death of the said T. P. a very considerable balance remained in his hands, in respect of the rents and profits of the said estates, and the produce of the said timber. And your, &c. that the said T. P. duly made his will, &c. [appointed Defendants executors, who proved will, and possessed personals, &c.] And your Orators have repeatedly applied, &c. and requested them to come to an account with your Orator in respect of the rents and profits received by the said T. P. from and timber money of the said estate; and if the said Defendants shall not admit assets, &c. then that an account, &c. and to pay unto your Orators what, upon such account, should appear to be due to them from the estate of the said T. P. And your Orators well hoped, &c. But now, &c. Pretence personals insufficient. Charge contrary. All which, &c.

Prayer.

And that the said Defendants may answer the premises; and that an account may be taken of the rents and profits of the said estates, and of the produce of timber felled thereon, which were received by the said T. P. or by any person or persons by his order, or for his use, subsequent to ; and also an account of the payments and disbursements of the said T. P. as the receiver and manager of the said estates, subsequent to the time aforesaid; and that an account may also be taken of the personal estate and effects of the said T. P. received by the said Defendants, or either of them, or by any other person or persons, by their, or either of their order, or for their, or either of their use. And also an account of the funeral expenses and debts of the said Testator; and that your Orators may be paid what shall appear to be due to them as such trustees as aforesaid, out of the personal estate of the said T. P. in a due course of administration. And for further relief, &c.

J. L.

Bill by Creditors against Executors, for Payment of Debts due by Testator, or an Account of Personals.

Humbly complaining, &c. your Orators, W. B. of and C. D. of creditors by simple contract, of J. F. late of , on behalf of themselves, and all other the creditors of the said J. F. who shall come in and seek relief by and contribute to the expense of this suit, that the said J. F. at the time of his death, was justly and truly indebted unto your Orator, W. B. in the sum of £ , and upwards, for goods sold and delivered, and monies paid, laid out, and expended, to and for the use of the said J. F. and that the said J. F. was also justly and truly indebted unto your Orator, C. D. in the sum of £ , and upwards, for, &c. And your, &c. that the said J. F. in his life-time, and at the time of his death, was possessed of, or well entitled unto a considerable personal estate, and being so possessed, departed this life on or about the, &c. having first duly made and published his last will, bearing date, &c. and thereby appointed J. M. and C. S. the Defendants, hereafter named, the executors thereof, as in and by, &c. And your, &c. that the said J. M. and J. S. duly proved the said will in the proper Ecclesiastical Court, and undertook the executorship thereof, and possessed themselves of personal estate and effects of the said Testator to a very considerable amount, and more than sufficient to satisfy his just debts and funeral expenses. And your, &c. that the said J. M. and C. S. having possessed themselves of the said Testator's personal estate and effects as aforesaid, your Orators have made, and caused to be made, several applications to the said J. M. and C. S. and requested them to pay and satisfy unto your Orators their said respective demands, with which, &c. But now, &c. pretend, that the said Testator's personal estate was small and inconsiderable, and hath already been exhausted in the payment of his funeral expenses and just debts. *Charge*, that the said Testator's personal estate and effects were more than sufficient to discharge all his just debts and funeral expenses; and so it would appear if the said Defendants would set forth a full, true, and particular account of all and every the personal estate and effects of the said Testator, come to their, or either of their, hands or use, and also a full, true, and particular account of the manner in which they have disposed of or applied the same, but which they, the said Defendants, refuse to do. All which, &c. To the end, &c.

Prayer.

And that an account may be taken of the monies due to your Orators, in respect of their several demands, and of other the debts owing by the said J. F. at the time of his death; and that if the said Defendants shall not admit assets of the said Testator, then that an account may also be taken of the personal estate and effects of the said Testator, possessed or received by, or by the order, or for the use of the said Defendants, or either of them; and that such personal estate may be applied in a due course of administration. And for further relief, &c.

J. L.

Pray Subpœna against J. M. and C. S.

Bill

Bill by Trustees, under an Assignment for Creditors, for a Discovery to go to Trial, Defendant having pleaded Set-off, and introduced Items which ought not to be charged against them as Trustees.

Humbly complaining, shew unto your Lordship, your Orators, P. N. of, &c. J. A. of, &c. and J. R. of, &c. that by indenture of assignment, bearing date, &c. and made between J. G. and J. W. therein described, of, &c. of the first part, the several persons who had thereunto set their hands, and affixed their seals, creditors of the said J. G. and J. W. as copartners as aforesaid, or of the said J. G. on his own separate account, of the second part, and your Orators, of the third part; they, the said J. G. and J. W. amongst other things, bargained, &c. (*set out that part which shews their title, and particularly the clause which gives them power to sue*). As in and by, &c. And your, &c. that at the time of the execution of the said indenture, there was justly due and owing to the said J. G. and J. W. on their partnership account, from R. K. of, &c. the Defendant hereinafter named, the sum of £ , being the balance of an account between the said J. G. and J. W. the particulars whereof are set forth in the schedule hereto. And your Orators shew, that they have repeatedly applied to the said R. K. to pay to them as such trustees as aforesaid, the said sum of £ , with which just and reasonable requests your Orators well hoped the said Defendant would have complied, as in justice and equity he ought to have done. But now so it is, &c. hath absolutely refused so to do; and your Orators have therefore been compelled to commence an action in the names of the said J. G. and J. W. against the said Defendant, to compel the payment of the said balance; and your Orators charge, that the said Defendant hath pleaded a set-off in the said action, and hath delivered a particular of such set-off, which, as far as it extends to the date of the said assignment to your Orators, corresponds, in substance, with the creditor side of the account, set forth in the said schedule hereto. But the said Defendant hath added thereto three articles for copper delivered in the year , for which he claims credit in the said action. Whereas your Orators charge, that the said Defendant, at or about the time of making the said assignment to your Orators, was apprized thereof, or had some reason to know, believe, or suspect, and did know, believe, or suspect, that the said J. G. and J. W. had made such assignment, or some assignment of their copartnership property to your Orators, or to some trustees for the benefit of their creditors. And your Orators charge, that the said copper was delivered at the , which had belonged to the said J. G. and J. W. and had been comprized in the said assignment to your Orators, and had been afterwards sold by your Orators to the said J. G. And the said J. G. applied to the said Defendant to purchase the said copper on his the said Defendant's credit, or to guarantee the payment for the said copper to the person from whom it was bought, by reason that the circumstance of the assignment to your Orators being known, the said J. G. could not obtain credit for the said copper, in his own name alone; and the said Defendant, for that reason, lent his credit to the said J. G. for the purchase of the said copper, or guaranteed the payment thereof, trust-
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ing to the personal responsibility of the said J. G. And your Orators further charge, that the said Defendant hath also added to his said particular of set-off a sum of £ for a year and a half's wages for one J. B. C.; whereas your Orators charge, that the said Defendant hath no just right to any such demand against your Orators, as Trustees under the said assignment. And the said Defendant refuses to set forth how he makes out such his claim, and when, and up to what time he computes the said wages. And your Orators charge, that they are advised that they cannot safely proceed in the said action, so commenced by them as aforesaid, in the names of the said J. G. and J. W. without a discovery of the circumstances hereinbefore stated, from the said Defendant; to the end, therefore, that the said R. K. may, according to the best and utmost of his knowledge and remembrance, information and belief, full, true, and perfect answer make to all and singular the matters aforesaid, as fully and particularly as if the same were here repeated, &c., and more especially that he may answer and set forth whether such indenture as herein before mentioned to bear date the day of , was not made between such parties, and to such purport and effect as hereinbefore set forth, so far as the same is herein set forth, or of some other, and what date, between some other parties, and whom, to such or the like, or some other, and what purport and effect, and whether, at the time of the execution of the said indenture, there was not justly due and owing to the said J. G. and J. W. on their partnership accounts, from the said Defendant, the sum of £ , or some other, and what sum, and whether the said schedule hereto doth not contain a just and true statement of the account between the said Defendant and the said J. G. and J. W. at the time of the said assignment. And if the said Defendant shall pretend that the said schedule hereto doth not contain a just and true statement of the account between the said Defendant and the said J. G. and J. W. at the time of the said assignment to your Orators, then that the said Defendant may set forth, in which of the said items, the same is not correct, and to what amount in each item, and all and every the particulars by which he makes out the same; and whether your Orators have not made to the said R. K. such applications as hereinbefore mentioned, or some other, and what applications, to such or the like, or some other, and what effect; and whether the said Defendant hath not refused to comply therewith, and why, and for what reason; and whether your Orators have not commenced an action in the names of the said J. G. and J. W. against the said Defendant, to compel the payment of the said balance, or how otherwise; and whether the said Defendant hath not pleaded a set-off in the said action, and whether he hath not delivered a particular of such set-off, and whether, as far as it extends to the date of the said assignment to your Orators, it does not correspond, in substance, with the credit side of the account, set forth in the said schedule, or in what particulars does the same differ therefrom; and whether the said Defendant hath not added thereto three articles for copper delivered in the year , and whether he does not claim credit for the same in the said action, or how otherwise; and whether the said Defendant, at or about the time of making the said assignment to your Orators, or at some other time, and when first, was not apprized thereof, and whether the said Defendant had not, and when first, some and what reason to know, believe, or suspect,

and whether he did not, and when first know, believe, or suspect, that the said J. G. and J. W. had made such assignment, or some other, and what assignment of their copartnership property, or some and what part thereof to your Orators, or to some persons for the benefit of their creditors, or for some other and what purpose; and whether the said copper was not delivered at the royal manufactory, or where else was it delivered; and whether the said manufactory had not belonged to the said J. G. and J. W.; and whether it had not been comprized in the said assignment to your Orators; and whether it had not afterwards been sold by your Orators to the said J. G. or to whom else; and whether the said J. G. or some other person, and whom, did not make some, and what application to the said Defendant, to purchase the said copper; on his, the said Defendant's credit, or to guarantee the payment of the said copper to the person from whom it was bought, or some other, and what application in regard thereto, to such, or the like, or some other, and what effect; and whether, by the reason, that the circumstance of the assignment to your Orators, was known, or for some other, and what reason, the said J. G. was not unable to obtain credit for the said copper in his own name alone, or how otherwise; and whether the said Defendant for that reason, or some other, and what reason, did not lend his credit to the said J. G. or some other person, and whom, for the purchase of the said copper, or did not guarantee the payment thereof; and whether he did not trust to the personal responsibility of the said J. G. or how otherwise; and whether the said Defendant, or some other person, and whom, hath not added to his said particular of set-off, a sum of £ , or some other and what sum, for a year and a half's wages, for J. B. C.; and whether the said Defendant hath any, and what right, to any such demand against your Orators, as Trustees under the said assignment.

Prayer.

And that the said Defendant may set forth how he makes out such his said claim, and when, and up to what time he computes the said wages, and whether your Orators can safely proceed in the said action so commenced by them as aforesaid, in the names of the said J. G. and J. W. without a discovery of the circumstances herein before stated, from the said Defendant. And that the said Defendant may make a full and true discovery of all and every the matters aforesaid. May it please, &c.

Pray Subpoena against R. K.

J. L.

Bill to oblige a Creditor to accept a Dividend made under a Deed of Trust, in satisfaction of his original Demand, Defendant having signed Articles, though not the Deed of Trust, refusing to sign the Deed, under Pretence of some Variation of the Trust, and that before he had signed the Articles, he had signed over the Debt to his Father, for the Benefit of all his Creditors.

States, that Plaintiffs, for some time before and in the year , carried on the business of merchants and copartners in trade, in partnership together, in

in the town of aforesaid. And Plaintiffs having sustained divers losses and misfortunes in the course of such their business, and being indebted to divers persons in a large amount, and being incapable of discharging the debts owing to them, it was resolved, that a general meeting of the principal creditors residing in the said county of should be held, for the purpose of taking into consideration the state of Plaintiffs affairs, and for forming a plan, to be pursued for the adjustment and settlement thereof; and such meeting was accordingly held on or about, &c. and the greatest part of the creditors of Plaintiffs attended thereat, and particularly W. H. of aforesaid, who was then a creditor of Plaintiffs for the sum of £ or thereabouts. And Plaintiffs also attended at that meeting, and Plaintiffs having then laid before their creditors then present, a general statement and account of their affairs, it was, at such meeting unanimously resolved and agreed, by and between Plaintiffs and such their creditors, that Plaintiffs R. H., &c. should be appointed superintendants and inspectors, and have a discretionary power and controul over the commerce, stock in trade, merchandize, and effects of Plaintiffs W. and J. W. until such time as their business and concerns in trade could be finally adjusted and settled, upon the terms and subject to the conditions, restrictions and agreements, hereinafter mentioned. And in regard, Plaintiffs were indebted to T. S. of , in the sum of £ , for which they have accepted bills to that amount, drawn by him on them. And that they had, independent of such debt, and without any consideration, also accepted various bills of exchange, drawn by him on Plaintiffs, in favor of different persons, to the amount of £ which then remained unpaid. It was also resolved and agreed, that the said T. S. should exonerate and discharge Plaintiffs and their estate and effects from the said accepted bills, and should procure, produce, and deliver up all the said accepted bills to the said inspectors or some of them, in order to be cancelled or destroyed, or otherwise made void. And that in consideration whereof, and not otherwise, the said T. S. should have and be entitled to receive, out of the effects of Plaintiffs, a dividend, after the rate of in the pound, in respect to his said debt, so soon as the produce of the effects of Plaintiffs would extend to pay such dividend; and also a dividend after the rate of in the pound, to the other creditors of the Plaintiffs. And it was also resolved and agreed, that the said T. S. should, after such dividend made, be entitled to receive in the proportion of in the pound, upon his said debt of £ with the other creditors, in the pound, upon their respective debts, until the said £ should be entirely paid off. But that, if the money arising from the said estate and effects should fall short of paying the whole demand of said T. S. and said other creditors, then, and in such case, the monies arising from the said estate and effects, should be paid according to the proportions aforesaid.

That on or about, &c. articles of agreement in writing, bearing date, &c. and made between, &c. were prepared to the following purport and effect, after reciting the several resolutions and agreements hereinbefore set forth, it was thereby expressly agreed, that Plaintiffs, and several other persons, whose names and seals were thereunto subscribed, did thereby promise, undertake, and agree, to and with each other, to do any other

other lawful act whatever for ratifying, confirming, and establishing the aforesaid agreement, terms, and proposals.

That Plaintiffs and most of the creditors of the said Plaintiffs W. and J. W. and particularly said W. H. on or soon after the said day of , signed such agreement.

That Plaintiffs W. and J. W. being, at the time of signing said articles of agreement, liable by their acceptance of such bills of exchange drawn on them by said S. as aforesaid, and which bills to the amount of £ had been so accepted for valuable considerations, as Plaintiffs were then indebted to said S. to that amount, but the rest of such bills were so accepted without consideration, and only for the honor of said S. and all which said bills, as well as those accepted for honor, as those accepted for valuable considerations, said S. H. had negotiated and indorsed for valuable considerations, and were then in the hands of divers persons residing in L. and B., a meeting was in the month of called and had in L. of the holders of such bills or their agents, in order to settle and compound the same demand on the estate of W. and J. W. and their other creditors by virtue thereof, in the best manner, for the benefit of the estate of W. and J. W.

That Plaintiffs W.'s, &c. by desire of said inspectors, attended such meeting, and it was thereupon proposed and agreed, that said bill-holders who in person, or by their agents attending said meeting, should be paid after the rate of in the pound on the sums made payable on their respective bills, and that such composition should be paid by installments, that is, and in the pound, on, &c. the further sum of and in the pound, on £ , and the remaining and on £ , and that Plaintiffs R. H., &c. should enter into a joint and several covenant together with Plaintiffs W. &c. to them, said bill-holders for the due payment thereof in L., and that such composition of in the pound, to be so paid, should be in full discharge of Plaintiffs W. and J. W. from all demands on them or their estate, under or by virtue of such bills of exchange.

That all money made payable by the bills of exchange aforesaid, which were, at the time of said last mentioned meeting, in the hands of persons, who, by themselves, or their agents, attended such meeting, amounted in the whole, to the sum of £ and no more, the rest of such bills having been taken up or discharged by, or by the procurement of said S. And as the composition, after the rate of in the pound on such sum of £ , would amount to £ , which would exceed the sum of £ , which was the whole amount of the said bills for acceptance, whereof Plaintiffs W., &c. have valuable considerations as aforesaid, by the sum of £ , the said T. S. agreed, that Plaintiffs, W. &c. or their assignees, should be creditors on him, said S. for such overplus of £ , and which agreement appeared clearly to be for the mutual advantage of themselves, and the rest of the creditors of Plaintiffs, &c. wherefore they consented thereto, and to become security for the payment of the said composition, after the rate of in the pound, to the said bill-holders.

That in consequence of such agreement by indenture of four parts, bearing date, &c. made, &c. [*recite indenture.*]

The

That Plaintiffs, by several undertakings in writing, dated, &c. did jointly and severally promise to pay to said several bill-holders, or order, in L. in the pound on said bills, at the days and times aforesaid, and in order to indemnify Plaintiffs against all costs and charges on account of the said indenture of covenants and undertakings, or any of them, and for raising a fund, and enabling them to discharge the said in the pound, to the said several bill-holders, pursuant to the said deeds and covenants, as also for the better collecting and getting in of the said debts and effects of Plaintiffs W. for the purpose of discharging all the debts owing by them.

That said Plaintiffs W. agreed to make a general assignment of all the partnership debts and effects, and Plaintiffs W. being seized in fee of a warehouse or building, situate, &c. Plaintiffs W. agreed to convey and assign said freehold premises, for the purpose of discharging his own debts, and the debts of the said copartnership. And thereupon, by indenture tripartite, bearing date, &c. and made, &c. after reciting the several matters aforesaid, or generally to the effect hereinbefore set forth. It was witnessed, &c.

That Plaintiffs took upon themselves the management of the said estate and effects of Plaintiffs W. and the execution of the trusts, declared by the aforesaid indentures, and sold and disposed of, and converted into money, all such particulars of such estate and effects, as they have been able to possess, collect, and get in, and have, out of the said money which have been raised thereby, paid unto all the holders of said bills of exchange in the pound, in full of the money which they were respectively entitled to receive from said Plaintiffs W. by virtue of such bills. And Plaintiffs have also paid a like dividend of in the pound, to almost all the other creditors of Plaintiffs W. which still remain to be got in, and when got in, as a further dividend, will be paid to each of such last-mentioned creditors. And Plaintiffs hoped, that all the creditors of W. who executed the aforesaid articles and indenture, dated, &c. or either of such instruments, would have accepted such dividend of in the pound, and such future dividend as the estate and effects of Plaintiffs W. as shall extend to make in full of the debts owing from said Plaintiffs to them respectively, and that none of such creditors would in any wise have molested Plaintiffs W. or either of them, in respect of any debt owing from Plaintiffs to any of such creditors.

That the before-mentioned W. H. who on said day of , was a creditor of said Plaintiffs W. for the sum of £ aforesaid, and who signed the aforesaid articles of that date as hereinbefore is mentioned, executed, as it is alleged, an assignment of all his estate and effects unto his father R. H. upon trust, to dispose of the same in payment of the debts of him, the said W. H. And said R. H. departed this life in the month of , having first duly made his last will in writing, and thereby appointed his brothers G. H. and C. H. both of , aforesaid, merchants, and D. F. of, &c. merchant, executors of his said will, proved the same, and by virtue thereof, claim title to such debt.

That Plaintiffs, at several times, tendered and offered to pay to them the sum of £ , being a dividend of in the pound, on the aforesaid debt from Plaintiffs W. to the said W. H. and being the same

same dividend as was paid to the rest of the creditors of said W. and J. W.

And Plaintiffs well hoped, that the executors of said R. H. would have accepted such dividend, and that neither they, nor said W. H. would, in any wise have molested Plaintiffs W. or either of them, in relation to the debts so owing from said Plaintiffs to said W. H. as aforesaid.

But now, so it is, &c. *Pretend*, that said W. H. did not execute such articles and indenture, dated, &c. as aforesaid, or either of such instruments, nor did, in or by any other deed or instrument, or in any other manner agree to accept of any dividend or composition in lieu or satisfaction of the debt owing to them from Plaintiffs W., and therefore he refuses to accept such dividend or composition, and insist on being paid the whole of the debt originally owing from Plaintiffs W. to him, the said W. H.

Charge, that W. H. did execute the aforesaid articles, dated, &c. and although he did not, at any time, execute the said indenture, dated, &c. yet, his not having executed the same, was casual and accidental, and he neither refused to execute such indenture, and would have executed the same, at any time within a long time after the date thereof, if application had been made to him for such purpose. And the said indenture was in all things substantially conformable to said articles of agreement. And, although the terms in said indenture may be said in form to differ from the said articles, inasmuch as by the said indenture, provision was made for payment of in the pound to said bill holders, before payment of any money to the other creditors of W. whereas, by the terms of the said articles, the said bill holders were not to receive such dividend of in the pound, until such time as such other creditors could have received a dividend of in the pound.

That such variation was in substance rather advantageous than prejudicial to the general creditors of W. as their estate hath extended to pay so much as in the pound, to their general creditors, as well as to said bill holders. And Plaintiffs insist, that all the said Defendants now are effectually bound by said articles of agreement. But then Defendants, at some times alledge, that the aforesaid assignment from said W. H. of his said debt, unto his said late father, was made before the aforesaid day of .

Charge, that in such case, said W. H. had full authority from his said father, to execute or assign the said articles of agreement, and all the trusts of the said assignment from said W. H. otherwise than for himself, have been fully performed, and he is alone interested in the said debt. But nevertheless, under such and the like pretences as aforesaid, or some others equally unjust and unreasonable, all said Defendants refuse to accept such dividend or composition, and they, or some, or one of them, particularly said W. H. in or about last Trinity term, caused Plaintiffs W. to be arrested and held to bail in an action at law, in his Majesty's Court of K. B., in the name of said W. B. for the recovery of said debt, and have obtained judgment in such action.

Prayer.

That Defendants may be decreed to accept the sum of £

and

and such other dividend as the estate and effects of Plaintiffs W. shall extend to pay, in full discharge of the debt due from Plaintiffs W. to him said W. H. Plaintiffs hereby offering to pay such money to such of said Defendants as shall appear to be entitled thereto. And that Defendants may be restrained from further proceedings, by injunction of this Court. And further relief, &c.

W. A.

SECT. XII.—BILLS TO CANCEL DEEDS, &c.

In the Exchequer.

Bill to deliver up Agreement to be cancelled, and for a Discovery.

Humbly complaining, shew unto your Honors, your Orator and Oratrix T. H. of , and M. A. R. of , widow, debtors, &c. that in and before the month of , your Oratrix was seised and possessed of a piece or parcel of ground, lying, &c. And your, &c. that in and about the said month of , your Oratrix was in habits of confidential friendship with J. D. then of B. bookseller, one of the defendants hereinafter named, and the said J. D. then pretended to take great interest in the concerns of your Oratrix, and promised his advice and assistance in the settlement of her affairs, your Oratrix having been left a widow about months before that time; and the said J. D. conducted himself altogether towards your Oratrix with an intention to induce your Oratrix to believe that it was his purpose to make proposals of marriage to her. And your, &c. that your Oratrix having before made many presents to the said J. D. did, in the said month of , in a conversation with the said J. D. express to him her intention to make him a present of the said piece of ground, and the said J. D. then pressing your Oratrix to carry this intention into effect, by executing some written agreement, your Oratrix instructed her attorney, Mr. M. of , to prepare an agreement, but your Oratrix not thinking it prudent to part absolutely at that time with her interest in the said piece of ground, directed Mr. M. to insert the sum of £ as a consideration to be paid by the said J. D. to your Oratrix for the purchase of the same, which sum of £ your Oratrix then considered to be above the value of the said piece of ground; and the said Mr. M. did accordingly prepare an agreement in writing, and in the words and figures, or to the purport and effect following, that is to say, &c. as in and by, &c. And your, &c. that after the said agreement in writing was prepared by the said Mr. M. and in or about the day of the said J. D. called at the house of the said Mr. M., and the said Mr. M. then read over the said written agreement to the said J. D., or otherwise informed the said J. D. of the contents thereof, and the said J. D. thereupon executed the said written agreement in the presence of the said Mr. M. And your, &c. that after the said J. D. had executed the said agreement, the said Mr. M. delivered the same unto him, and the said J. D. on the same day brought the said agreement to your Oratrix at her own house, and your Oratrix thereupon also executed the same at the request of the said J. D. And your, &c. that at the time of executing such agreement as aforesaid, by your Oratrix and the said J. D. it was understood by your Oratrix and the said J. D. notwithstanding the said sum of £ was mentioned as the consideration of the said agreement, in order to retain to your Oratrix a power over the said piece of ground,

ground, that it was the ultimate intention of your Oratrix to make the said J. D. a present of the same. And your, &c. that although the sum of £ was mentioned in the said agreement to have been paid by the said J. D. to your Oratrix, in part of the aforesaid sum of £ , yet that in truth no part of the said £ was ever paid by the said J. D. And your, &c. that after the making of the said written agreement, instead of continuing his good offices and friendship to your Oratrix, in the faith of which your Oratrix had executed the said agreement, the said J. D. pretended to have cause of complaint against your Oratrix, and not only refused all further assistance in the management of her affairs, but actually caused your Oratrix to be arrested in two separate actions for sums of money which the said J. D. had advanced for her use in the management of her concerns, expressly for the purpose of distressing the feelings of your Oratrix, and not from any apprehension that such arrests were necessary for securing the debts due to the said J. D. And your, &c. that upon such conduct on the part of the said J. D. towards your Oratrix, your Oratrix caused application to be made to the said J. D. to carry the aforesaid written agreement into effect, by payment of the said sum of £ therein mentioned, on having a conveyance made to him of the said piece of ground, or otherwise to deliver up the said agreement to be cancelled. And the said J. D. on such applications being made to him by the said Mr. M. on the part of your Oratrix, absolutely refused to pay the said sum of £ , and to carry the said agreement into effect; and the said J. D. then declared to the said Mr. M. that as he and your Oratrix were no longer on friendly terms, he did not consider himself entitled to the said piece of ground, and that therefore he waived and relinquished all claim thereto under the aforesaid agreement, and would have nothing further to do with the said agreement. And your, &c. that after the said J. D. had so waived the said written agreement, your Oratrix agreed with your Orator to sell to him the said piece of ground, together with other parcels of land at B. aforesaid, at or for the price or sum of £ , the price of the said piece of ground being calculated in the said sum of £ at £ ; and afterwards, by indentures of lease and release, bearing date respectively on or about the and days of , and by assignment, bearing date the said day of , your Oratrix, in consideration of the said sum of £ then in hand paid to your Oratrix, conveyed, released, and assigned the piece of ground, together with the said other parcels of land, unto your Orator, his heirs, executors, administrators, and assigns, as in and by, &c. And your, &c. that your Orator and Oratrix have made frequent applications to the said J. D. to deliver up the aforesaid written agreement to be cancelled, with which just and reasonable requests your Orator and Oratrix well hoped, &c. But now, &c. And the said B. W. pretends, that he hath agreed with the said J. D. to purchase the said ground in the aforesaid written agreement mentioned, at or for a certain sum of money paid, or to be paid by him to the said J. D. as the consideration for the same, and that he had no notice at the time he so agreed with the said J. D. of the circumstances under which the aforesaid agreement was entered into by and between your Oratrix and the said J. D. or that the said J. D. had afterwards waived the agreement; whereas your Orator and Oratrix expressly

pressly charge, that the said B. W. in and before the said month of _____, and from thence hitherto hath been, and still is, the attorney and confidential adviser of the said J. D. in all his affairs, and that he well knew from time to time the circumstances under which the aforesaid written agreement was entered into, and all that passed respecting the same by and between your Oratrix and the said J. D. or by and between other persons on their parts and behalfs, and in particular the said B. W. well knew before he made the said pretended purchase of the said J. D. that the aforesaid written agreement was not entered into in consequence of any actual contract between your Oratrix and the said J. D. respecting the said piece of ground, but merely with a view to your Oratrix's ultimate intention to make a present of the said piece of ground to the said J. D. and that the said J. D. had afterwards absolutely waived all claim to the said piece of ground, under the said agreement. And your Orator and Oratrix further charge, that the said B. W. before he made the said pretended purchase of the said J. D., by the direction of the said J. D. and as his attorney or agent, corresponded with Mr. M. hereinbefore named as the attorney of your Oratrix, on the subject of the said written agreement, and that the said B. W. was then perfectly acquainted with the real nature of the transaction between the parties by the said Mr. M. And your Orator and Oratrix further charge, that if the said B. W. has in fact entered into any agreement with the said J. D. for the purchase of the said piece of ground, yet that no part of the consideration mentioned in such agreement hath ever been really paid, or was meant to be paid by the said B. W. and that such agreement was merely colorable, and was meant only to vest a nominal right in the said B. W., and that the said J. D. was advised by the said B. W. to enter into such a scheme or device to compel your Oratrix to convey the said piece of ground to the said B. W., who was to hold the same as a trustee for the said J. D., and that in truth the said J. D. had totally abandoned all idea of claiming under the aforesaid written agreement, until he was otherwise advised by the said B. W. And your Orator and Oratrix humbly insist, that they are well entitled to have the aforesaid written agreement, entered into between your Oratrix and the said J. D. delivered up to be cancelled, but nevertheless, under such and the like pretences as aforesaid, the said confederates refuse to deliver up the same. And the said confederates have filed their bill in this honorable Court, to compel your Oratrix to execute a conveyance of the said piece of ground to the said B. W. All which, &c. To the end therefore, &c.

Inquiry.

And if the said confederates shall pretend that the said B. W. has in fact entered into any agreement with the said J. D. for the purchase of the said piece of ground, then that they may set forth the said agreement and all the particulars thereof, and when, and where, and with what view the said agreement was entered into, and by whom the same was prepared and drawn, and if any part of the consideration is in the said agreement mentioned to have been paid, then that they may set forth when, and where, and in whose presence such part of the said consideration was so paid by the said B. W. and to whom the same was paid, and
of

of what the same consisted ; and whether the said sum of £ mentioned in the said agreement to have been paid by the said J. D. to your Oratrix, in part of the said sum of £ , was ever paid ; and if the said J. D. shall pretend that the said sum of £ was paid by him, then that he may set forth when, where, how, and in what manner, and to whom, and in whose presence the same, and every part thereof, was so paid.

Prayer.

And that the said confederates may be compelled to make a complete answer to the several matters aforesaid, and that the said written agreement, so entered into as aforesaid, between your Oratrix and the said J. D. may be decreed to be delivered up to your Oratrix to be cancelled. And further relief, &c.

M.

*Pray Subpœna against J. D.
and B. W.*

Bill by Lessee to have an Agreement delivered up to be cancelled, which assigned away the Remainder of his Lease contrary to his Intention, he not being able to read or write ; and an Injunction to restrain Action of Ejectment.

Humbly complaining, sheweth unto your Lordship, your Orator W. A. of, &c. that on or about the day of , a certain indenture of lease was made and duly executed between E. L. then of, &c. but since deceased, of the one part, and your Orator of the other part, in the words and figures, or to the purport and effect following, that is to say, &c. (*set out lease in hæc verba*) as in and by, &c. And your, &c. that your Orator entered upon and possessed the said farm and lands, under and by virtue of the said lease, and that the said E. L. departed this life in or about, &c. and that after his death I. H. of, &c. the Defendant hereinafter named, became, by purchase or otherwise, seized of or entitled to the reversion of the said farm and lands, subject to the said lease. And your, &c. that no notice was ever given to your Orator to determine or make void the said lease at the end of years from the commencement of the said term of years, thereby demised, pursuant to the proviso therein contained, or otherwise, but upon the expiration of such years, the said I. H. proposed to your Orator to enter into a new agreement as to the said farm and lands, giving your Orator to understand that the interest of your Orator therein was determined. And the said I. H. upon that occasion, as he had frequently done before, expressed great friendship for your Orator, and declared that it was his wish and intention that your Orator should continue in possession of his said farm as long as he lived. And your Orator sheweth, that your Orator can neither write nor read, and that your Orator, fully believing that his interest in the said lease was determined, and that the said Defendant, who is a man of fortune, was dealing fairly
by

by your Orator, and was not intending to take any advantage of him, your Orator consented to enter into the new agreement proposed by the said I. H. and thereupon the said Defendant caused such agreement to be reduced into writing by one M. B. and your Orator set his mark thereto, and such agreement was in the words and figures, or to the purport and effect following, that is to say, (to remain one year and pay the land tax, which he was not to pay by his lease,) as in and by, &c. And your, &c. that confiding in the said I. H.'s professions of friendship for your Orator, and in his aforesaid declarations, that it was his wish that your Orator should continue in his said farm as long as your Orator lived, your Orator proceeded to expend considerable sums of money in erecting new buildings upon the said farm and lands, and in other improvements thereof. And your Orator sheweth, that in or about, &c. the said I. H. informed your Orator that he must either pay an advanced rent of £ or deliver up possession of the said premises ; and your Orator having refused to comply with such unexpected and unjust demand, the said I. H. on or about, &c. caused your Orator to be served with a notice to quit the said farm on the day of . And your, &c. that after he had received the said notice, your Orator having complained to one of his relations of the great hardship of being obliged to quit his farm after he had expended so much money in improving it, in consequence of the said Defendant's assurances that your Orator should continue in it during his life, and having in the course of such conversation mentioned his lease from the said E. L., his said relation desired to see that lease, and upon perusing the same, read to your Orator the proviso therein contained, whereby it appeared that the said lease was not to determine at the end of the first years without months previous notice. And your Orator sheweth, that he hath since, by himself and his agents, repeatedly applied to the said I. H. and requested him to deliver up the said agreement of the, &c. to be cancelled, and to confirm the said indenture of lease of the, &c. and to return to your Orator the land tax which he hath paid in respect of the said farm, since the making of the said agreement, and which he was thereby bound to pay, although he was not to pay it by the said indenture of lease, with which just and reasonable requests your Orator well hoped, &c. And the said I. H. in or as of Hilary term last, served your Orator with a declaration in ejectment, in order to obtain possession of the said premises. And the said Defendant at some times pretends, that previous to the making of the said agreement of the, &c. the said Defendant had fully explained to your Orator that your Orator was entitled to hold the said premises under the said indenture of lease, until the end of the term of years therein mentioned, and that your Orator was desirous to surrender and determine the said lease, whereas your Orator expressly charges the contrary thereof to be the truth, and that the said Defendant never did in any manner explain to your Orator, or give him to understand, that he was entitled to hold the said farm until the end of the said term of years. And the said Defendant well knew at the time of making the said agreement of the, &c. that your Orator would not have entered into the same, if he had been aware of his rights under the said indenture of lease, and the said Defendant for that reason concealed from your Orator that he had such rights. And your

your Orator charges, that at the time of making the said agreement, your Orator had not the advice or assistance of any person whatsoever, but acted therein according to the suggestions of the said Defendant, supposing he meant to be kind towards him, and would deal fairly by him. All which, &c.

Prayer.

And that the said Defendant may answer the premises. And that the said agreement, bearing date, &c. may be decreed to be delivered up to your Orator to be cancelled; and that the said Defendant may confirm the said indenture of lease of, &c.; and that an account may be taken of what your Orator has paid for land tax of the said farm since the making of the said agreement, and that the said Defendant may be decreed to repay the same to your Orator, and that in the mean time the said Defendant may be restrained by the order and injunction of this honorable Court from proceeding in his action of ejectment, and from commencing or prosecuting any other proceedings at law against your Orator for recovering possession of the said premises. And further relief, &c.

J. L.

Bill to set aside Indentures which conveyed away an Estate absolutely, though they were intended to operate only as a Security for a certain Sum of Money.

States, that Plaintiff W. C. being entitled to the premises hereinafter mentioned, in reversion, subject to the life estate of E. C. his mother, and having by indentures of lease and release, bearing, &c. the release being made between Plaintiff of the first part, and one R. W. J. C., and one J. S. of the second part; one R. C. and G. R. of the third part, Plaintiff, for the consideration therein mentioned, conveyed the same premises hereinafter mentioned to the said R. C. and G. R. upon trust, out of the rents and profits, or by sale or mortgage, to pay the debts specified, and then to convey the same to Plaintiff.

That being at that time in embarrassed circumstances, and having a pressing occasion for a sum of money not less than £ , in order to enable him to obtain a lucrative situation which he had in view, applied to the said R. C. to lend him the same, and offered him security of the premises comprised in the aforesaid indentures of lease and release, together with the advantage and emoluments, if he the said R. C. would advance the sum of money to Plaintiff. And the said R. C. instead of complying therewith, informed T. R. one of the bankrupts, the brother of Plaintiff C. the wife of Plaintiff W. C. of such Plaintiff's offer, and advised him to inform T. R. his father and the father of Plaintiff's wife, and to prevail on him to advance or procure the money, in order to prevent W. C. making an imprudent bargain with strangers, to the prejudice of his wife and family, which the said T. R. the said bankrupt accordingly did. And the said T. R. junior, being informed thereof, agreed

agreed to accommodate Plaintiff, but not having the money, it was proposed and agreed that the said T. R. senior, should borrow the money upon his bond from one J. O., and in order to indemnify the said T. R. junior, that Plaintiff should convey to T. R. senior, and T. R. junior, the aforesaid premises, subject to the life estate of Plaintiff's mother, and to the aforementioned charges made therein by the above mentioned deed of, &c.

That the said T. R. senior, accordingly borrowed the sum of £ from the said T. O.; and T. R. senior, and T. R. junior, by their bond or obligation in writing, made under their hands and seals, became bound to pay the same to the said T. O. And one T. P. H. an attorney, was employed by the said T. R. senior, to prepare the proper instruments for carrying the said agreement into execution. And Plaintiff W. C. having received said £, said Mr. H. presented to Plaintiff two instruments, which, Plaintiff being ignorant of these matters, and trusting to the said Mr. H., executed. And it is alleged said two instruments are to the purport or effect following, that is to say, (*insert the indentures*) which said indentures are in the custody or power of the Defendants hereinafter named, or some or one of them.

That the meaning, agreement, and intention of the parties to the said instrument of release was, that after payment of the several charges on the premises, or the money to be produced by the sale of the same, that the surplus so limited to the said T. R. senior and T. R. junior should by some other instrument be settled and secured upon Plaintiff W. C. and his family, and that the said T. R. senior and T. R. junior were mentioned and intended only to be trustees as to the same. And the said Mr. H. at the time the said indentures of the and of were executed, and at other times, informed the parties thereto, or some of them, that the same, amounting to an absolute conveyance, he would prepare some deed to declare the trusts of the said surplus, or to that or the like effect.

That in the month of said T. R. senior departed this life, leaving T. R. junior him surviving, whereby the joint estate in the said premises conveyed in the said indentures of the and of survived to the said T. R. junior; and T. R. senior, by his will in writing, appointed E. R. his executrix, and the said E. R. duly proved the said will, and is thereby become his personal representative.

That said T. R. carried on trade in copartnership with his brother I. R., and that said T. R. and I. R. having become bankrupts, a commission under, &c. (*state it in the usual way*) as in and by, &c.

That no defeazance was executed in the life-time of the said T. R. senior, but that the said T. R. senior, having bequeathed a legacy of £ to Plaintiff S. C. his daughter, and said E. R. for the further advancement, agreeing to give the £ and the aforesaid sum of £, together with an arrear of interest being due from Plaintiff W. C. to said E. R. executrix of said T. R. senior, together with other sums of money borrowed, and it being at that time apprehended that the whole of the interest then due from the Plaintiff W. C. was due to the estate of T. R. senior, it was agreed between said E. R., T. R. junior, and Plaintiff W. C. that they should convey the aforesaid premises to trustees, upon the trusts hereinafter mentioned. And by indenture, bearing date

date some time in the year , Plaintiff W. C., said E. R., and T. R. junior, in due form of law conveyed said premises to Plaintiff W. C. and T. W., upon trust to sell said estate and premises to pay the incumbrances charged thereon by the aforesaid indentures of the and of , to pay said sum of £ and interest to said S. R. and to place out the monies arising therefrom upon government or other securities, and pay the interest and dividends thereof to Plaintiff W. C. during her life, and upon the decease of the survivor to be divided among their children as therein mentioned, as in and by, &c.

That £ of the interest due by Plaintiff W. C. on the aforesaid sum of £ was due to said T. R. junior, the same having been advanced by him to said T. O. in behalf of Plaintiff W. C., but all the principal, residue, and interest was paid to the said T. O. by the said T. R. senior, or the said E. R. his executrix, and therefore the said sum of £ is due to the said Defendants, the assignees of the estate and effects of the said T. R. junior.

That since the execution of the said last mentioned deed, Plaintiff J. C. had intermarried with Plaintiff S. R.

That the title deeds of the estate was delivered to Plaintiff I. C. and are now in his possession; and said Defendants, the assignees of said T. R. and J. R., insist, that the said estate, by virtue of the aforesaid conveyances of and of , conveyed the property of the said T. R. jun. for his own benefit, and that the same in some other conveyance to the commissioners, vested in them for the benefit of the creditors seeking relief under the commission. And they insist upon the benefit of the said instrument, and have commenced an action of trover against Plaintiff I. C. to recover possession of said title deeds.

That Plaintiffs are entitled to have said deeds of lease and release of and of cancelled, and the assignees ought not in conscience to proceed in the said action. They have therefore, by themselves and their agents, applied to said Defendants, the assignees, to deliver up said deeds to be cancelled, and to discontinue the said action, with which reasonable request they ought to have complied, but refuse so to do, alleging that the said conveyance is absolutely unconditional, and that it was not the intention of the parties that any deed should be executed, either in the nature of a defeasance or of a declaration of trust, but that it was meant that the said T. R. senior, and T. R. junior, should take the surplus for their own use and benefit.

Charge, that the said bond debt from T. R. senior and T. R. junior to said I. O. was considered as the debt of W. C., and the said T. R. senior enjoined Plaintiff W. C. to pay the interest of it regularly, and in the month of a year's interest, amounting to £ being then due, Plaintiff W. C. gave to T. R. £ , which was all he could then raise towards discharging such interest to the said I. O. and took a receipt from him, in the words and figures, or to the purport and effect following, that is to say, &c.

And as evidence thereof, Plaintiffs further charge, that said T. R. junior made an entry in a book kept by him, which is in the words and figures, or to the purport and effect following, that is to say, &c.

Charge, that the book in which the entry is made, is in the proper custody of the Defendants hereinafter named, or one of them, and as

further evidence thereof, Plaintiffs further charge, that Plaintiff W. C. being indebted to Messrs. B. and M. of, &c. in £ and upwards, and having paid £ , and being unable to discharge the rest, they were very urgent, and Plaintiff thereupon applied to said T. R. jun. for his surplus, and said T. R. jun. sent to said Messrs. B. and M. or one of them, a note in the words, &c. which said note was signed by said T. R. sen. and T. R. jun. but said Messrs. B. and M. were dissatisfied with the said security, and insisted on a bond, and returned said note to said T. R. jun. and the same is now in the possession, custody, or power of the Defendants, or some or one of them; and Plaintiff, being afterwards very much pushed by said Messrs. B. and M. for payment of said debt, and said T. R. sen. being dead, and said E. R. his executrix, and T. R. jun. some time in the month, &c. under their hands and seals, executed a bond, bearing, &c. in the condition of which, &c.

Charge, that the aforesaid memorandum of the said T. R. sen. upon the receipt given by the said J. O. the aforesaid entry in the said book of account, by the said T. R. jun. and the aforesaid note sent to the said Messrs. B. and M. and the aforesaid bond given to them, with declarations of the trust abovementioned, and proved by writing, signed by the parties, by law enabled to declare such trust.

Charge, that said T. R. jun. upon some or one of his examinations before the commissioners of bankrupt, explained the above circumstances, in the presence of the assignees; notwithstanding which, they still insist upon the said conveyance of the and , and upon proceeding in their said action against Plaintiff J. C. All which, &c.

Prayer.

That the indentures of the and of may be cancelled, and that the said Defendants, the assignees of the estate and effects of the said bankrupts T. and T. R. may be enjoined from proceeding in the said action against J. C. and from commencing or prosecuting any other action against any other of the Plaintiffs in respect of any of the matters aforesaid.

Bill by Heir at Law to set aside Will, and Surrender of Copyhold, as obtained by Fraud.

Humbly complaining, sheweth unto your Honors, your Orator, S. J. of, &c. debtor, and accountant, &c. that S. J. your Orator's father, died in the life-time of his father, S. J. the elder, your Orator's grandfather, and that the said S. J. the elder, being of the age of years, and seized to him and his heirs, according to the custom of the manor of K. in the county of N. of and in, &c. &c. (*set out and describe the estate*) and also seized of or entitled to other real estates, he the said S. J. the elder, was, on or about Sunday, the, &c. afflicted with a violent stroke of the palsy, which deprived him of the use of his limbs, and also of his speech, and very much weakened and deranged his mental faculties, and the said S. J. the elder departed this life on or about the day of following, having continued, from the time of his attack until his

his death, in such state of body and mind as aforesaid. And your, &c. that M. G. and W. J. the Defendants hereinafter named, had intermarried with the two daughters of the said S. J. the elder, and that the said two daughters of your Orator's father were the only children of the said S. J. and that your Orator, being the only son of his father, became, and was, upon the death of the said S. J. the elder, his heir at law. And your, &c. that at the time the said S. J. the elder was afflicted with such paralytic stroke as aforesaid, the said M. G. and his wife resided in the house of the said S. J. the elder, and immediately thereupon the said M. G. sent for the said W. J. who resided in the same village of K. aforesaid, and the said W. J.; and the said M. G. having been informed by E. S. of, &c. surgeon and apothecary, who attended for the purpose of medical assistance to the said S. J. the elder, that the said S. J. was not likely to recover from the said attack, the said W. J. and M. G. prepared a written paper, purporting to be a surrender of the copyhold premises aforesaid, with the appurtenances, into the hands of J. G. and J. R. third boroughs of the said manor of K. to the use and behoof of the said W. J. his heirs and assigns for ever, as in and by, &c. And your, &c. that the said W. J. and M. G. on the day after the said S. J. the elder had been so afflicted with such paralytic stroke as aforesaid, caused the said J. G. and J. R. to come to the house of the said S. J. and then and there, in their presence, guided the hand of the said S. J. to make a mark to the written paper, purporting to be such surrender as aforesaid, the said S. J. the elder, who had been accustomed to write a fair and good hand, being, at the time such mark was so made to the said paper, in his bed, in the extremity of illness, and incapable of writing or of speaking intelligibly, and utterly ignorant of or unable to comprehend the contents of the paper, which he was so made to execute; and the said M. G. and W. J. then well knowing or believing that the said S. J. was in imminent danger of death. And your, &c. that after the said S. J. had been made to execute the said surrender, in manner aforesaid, the said W. J. and M. G. instructed W. M. who was a schoolmaster in the village of, &c. to prepare a written paper, purporting to be the will of the said S. J. the elder, whereby it was stated that the said S. J. the elder gave and devised, &c. (to said Defendants to pay the interest of £ , and then divided equally between them and Plaintiff), as in and by, &c. And your, &c. that on or about, &c. being the sixth day from that on which the said S. J. the elder was afflicted with such paralytic stroke as aforesaid, and the day before his death the said W. J. and M. G. caused three persons to attend as witnesses at the house of the said S. J. and, in their presence, guided the hand of the said S. J. to mark to the said written paper, purporting to be a will, the said S. J., then being in his bed, and unable to write or to speak, so as to be understood, and ignorant or incapable of comprehending the contents of the said written paper, and in the extremity of illness. And your, &c. that after the death of the said S. J. the elder, the said M. G. and W. J. proved the first mentioned paper, signed by the mark of the said S. J. as aforesaid, to be presented to the jury at a court of the said manor of K. as a surrender by the said S. J. of the said one-fourth of one yardland (about 40 acres) of copyhold land, and by virtue thereof, the said W. J. was afterwards admitted thereto, to hold the same to him and his heirs, according to the custom of the said manor;

and the said W. J. hath, from the death of the said S. J. been, and now is in the possession of the said one-fourth of one yardland copyhold land, or in the receipt of the rents and profits thereof, and hath divided the said rents and profits with the said M. G. or hath otherwise made to the said M. G. some compensation for assisting him in such fraud and practise upon the said S. J. the elder, as aforesaid. And your, &c. that upon the death of the said S. J. the elder, the said W. J. and M. G. also entered into the possession of the said copyhold house and premises at K. aforesaid, and of all other the real estate of the said S. J. the elder, or into the receipt of the rents and profits thereof, and continued in such possession or receipt until your Orator attained his age of twenty-one years, which happened on or about the, &c. And the said W. J. and M. G. during the minority of your Orator, applied but a very small part of the profits of the said house, and other estates, in the education, or for the use of your Orator, and the rest thereof they applied, as they pretend, pursuant to the trusts of the said pretended will of the said S. J. the elder. And your, &c. that, upon the death of the said S. J. the elder, the said W. J. and M. G. possessed themselves of the personal estate and effects of the said S. J. the elder, to a very considerable amount, under pretence that the said S. J. the elder had made a valid and effectual will of such personal estate, and had appointed the said W. J. and M. G. the executors thereof; and the said W. J. and M. G. have also possessed themselves of all and every the books and papers of the said S. J. the elder, and of the title-deeds of his real and other estates. And your, &c. that the said S. J. the elder, in his life-time, mortgaged the said copyhold house and premises in which he resided at K. for the sum of £ , and that the said mortgage remained charged thereon at the death of the said S. J. the elder, and still remains charged thereon, not having been discharged and satisfied out of the personal estate of the said S. J. the elder, by the said W. J. and M. G. as it ought to have been. And your, &c. that the said M. J. the wife of the said W. J. and A. G. the wife of the said M. G. were the only surviving children of the said S. J. the elder, at the time of his death; and your Orator and his sister, the aforesaid E. J. were, at the time of the death of the said S. J. the elder the only surviving children of any deceased child of the said S. J. the elder, and that the said M. J. and A. G. or their said husbands, in their rights, were, upon the death of the said S. J. the elder, if he died intestate, as to his personal estate, entitled each to one-third of the residue of such estate, after payment of his funeral expenses and debts; and that your Orator and his said sister, as representing their deceased parent, were entitled to the other one-third of such residuary estate, in equal moieties. And your, &c. that inasmuch as the said pretended surrender of the said one-fourth of one yardland copyhold land by the said S. J. the elder, and also the said pretended will of the said S. J. the elder, were made and executed by such fraud and practice of the said M. J. and M. G. as hereinbefore stated; that for and notwithstanding the same, the said copyhold premises, and all other the real estate of the said S. J. the elder, upon his death, descended and became vested in your Orator, as his heir at law. And your Orator hath made frequent applications to the said W. J. and M. G. to deliver up the possession of the said copyhold and other real estates to your Orator, and to come to a just and true account with him for the rents and profits thereof respectively, which

which have been received by them, or either of them, since the death of the said S. J. the elder, and also out of the personal estate of S. J. the elder, to satisfy and discharge the said mortgage for £ . And your Orator hath also requested them to come to a just and true account with your Orator for his one-sixth share of the residuary personal estate of the said S. J. the elder; or if it shall appear that the said S. J. the elder made any valid or effectual will of his personal estate, and that the said W. J. and M. G. are the executors thereof, then that the said Defendants would account with your Orator for such part or share of the personal estate of the said S. J. the elder, as your Orator should be entitled, under such will, with which just and reasonable requests your Orator well hoped the said W. J. and M. G. would respectively have complied, as in justice and equity they ought to do. But now, &c. absolutely refuse to do. And the said W. J. and M. G. pretend, that the said surrender, and the said pretended will, were prepared by the express direction of the said S. J. the elder, and from his own notion, and not from the instructions, or by the suggestions of the said Defendants, or either of them, and that, after the same were prepared, he read the same over, or the same were read over to him faithfully, previous to his execution thereof respectively; and that he executed the same respectively of his own notion, and not by the influence or the compulsion of the said Defendants, or either of them, or by their contrivance, & with full knowledge and clear apprehension of the contents and effects thereof. Whereas your Orator expressly charges, that at the times the said instruments were respectively prepared, the said S. J. the elder had not power of body or mind to converse or decide upon matters of business; nor to express himself intelligibly upon any subject of business, and that the said instruments were either prepared by the said Defendants, or by their direction, or at their suggestion, and not upon the notion or suggestion of the said S. J. the elder. And that after the same were respectively prepared, and previous to the execution thereof, the said S. J. the elder was utterly incapable of reading them, and that the same, previous to the execution thereof, were never read to or in the presence of the said S. J. the elder; or that if the same, or either of them, were so read, they were read falsely and unfaithfully, and as and for instruments of a different purport and effect, as the said S. J. the elder had not, at the time or times of such reading respectively, power of body or mind to hear or apprehend the contents and effects thereof. And your Orator further charges, that at the times of the execution thereof respectively, in manner aforesaid, the said S. J. the elder had not power of mind to know and comprehend the contents and effect thereof, nor did know or comprehend the contents and effect thereof, and that the same were not executed from his own notion, and of his own free will, but by the suggestion, compulsion, or contrivance of the said Defendants, or one of them. And your Orator further charges, that the said E. S. who attended the said S. J. the elder, in his illness, and the said W. M. who drew the said pretended will, and also the said J. G. and J. R. who attended as aforesaid, to receive the said pretended surrender, and the subscribing witnesses to the said pretended will, or some of them, represented to the said Defendants that the said S. J. the elder was not in a fit state of mind or body to act in matters of business, and remonstrated with the said Defendants upon the impropriety of such instruments

instruments being prepared or executed. And the said Defendants also pretend, that the said S. J. the elder, before he was afflicted with such paralytic stroke as aforesaid, had contracted and agreed with the said W. J. to sell to him the said copyhold premises at or for the price of £ , and that the said W. J. had actually, before such illness, paid the said sum of money to the said S. J. the elder, for and in respect of such surrender ; whereas your Orator charges that no such contract or agreement ever was made by the said S. J. the elder ; nor did the said W. J. ever pay any sum of money whatsoever to the said S. J. the elder, in respect of the purchase of the said copyhold premises ; and, as evidence thereof, your Orator charges that the said S. J. the elder never consulted with any professional or other person as to the value of the said premises, and no contract or agreement for the sale of the said copyhold premises to the said W. J. was ever reduced into writing, or signed by the said S. J. the elder ; nor is any memorandum of such agreement, or any entry or writing respecting the same, or the receipt of any sum of money in respect thereof, to be found in the books, or amongst the papers of the said S. J. the elder, in his hand-writing. And your Orator further charges, that no memorandum or entry respecting such agreement, nor any entry of any such payment having been made for the purchase-money thereof, or any part thereof, is to be found in the books of the said W. J. except such memorandum or entry as the said W. J. may have made therein since the said S. J. the elder was afflicted with such paralytic stroke as aforesaid. And the said Defendant E. J. the sister of your Orator, pretends that the said copyhold house, with the appurtenances at K. was well devised by the said S. J. by such pretended will as aforesaid ; and that your Orator is not entitled to have the mortgage thereon discharged and satisfied out of the personal estate of the said S. J. the elder. All which, &c.

Inquiry.

And if the said W. J. shall pretend that the said S. J. the elder had contracted and agreed with him to sell the said one-fourth of said yardland copyhold land, then that the said W. J. may set forth when and where such contract was made, and who was present at the making thereof, and why, and for what reason, the said S. J. the elder became willing to sell the said copyhold land, and when and where, and in whose presence the purchase-money of the same, or any part or parts thereof, was or were paid by the said W. J. to the said S. J. the elder.

Prayer.

And that the said Defendants may answer the premises. And that it may be declared that the said pretended surrender of the said one-fourth of the yardland of copyhold land by the said S. J. the elder is void, and of no effect ; and that the same, upon the death of the S. J. the elder, descended to your Orator as his heir at law, or that the said W. J. by the said surrender, or by his subsequent admission to the said copyhold premises, became, and is a Trustee thereof for your Orator, as such heir at law ; and that the said W. J. may be decreed to deliver up the said pretended surrender to be cancelled, and also to deliver up the possession of the said one-fourth
of

of one yardland of the said copyhold land to your Orator, and, if necessary, to surrender the said copyhold land to the use of your Orator and his heirs, and to come to an account for the rents and profits thereof received by the said W. J. or by his order, or for his use, since the death of the said S. J. and to pay over to your Orator what shall be found due from him upon the taking of such account; and that an issue may be directed to try whether the freehold estates of the said S. J. the elder were well devised by him, or descended to your Orator, as his heir at law; and if it shall be found that the said last mentioned estates descended to your Orator, as the heir at law of the said S. J. the elder, then that the said W. J. and M. G. may be directed to deliver up the said pretended will to your Orator, to be cancelled; and also to deliver up to your Orator all the deeds and other writings relating to the said estate, and to come to an account for the rents and profits of the said estates, which have, since the death of the said S. J. the elder, been received by them, or either of them, or by their, or either of their order, or for their, or either of their use, and to pay over to your Orator what shall be found due to him upon the taking of such account; and that an account may also be taken of the personal estate and effects of the said S. J. the elder, come to the hands of the said Defendants, or either of them, and also an account of his funeral expenses and debts, and that the said Defendants may be directed, in the first place, by and out of such personal estate, to satisfy and pay the said mortgage for £ , charged on the said freehold estates, and all interest due thereon; and if it shall appear that the said S. J. the elder died intestate, then that the said Defendants may be directed to pay over to your Orator one-sixth part of the clear residue of the personal estate of the said S. J. the elder; or if it shall appear that the said S. J. made any valid will of his personal estates, that the said Defendants may be decreed to pay to your Orator such part or share thereof as he shall be entitled to by the provisions of such will. And for further relief.

W. J.

Bill by a Widow to have a Bond delivered up, which her Husband had given to his Father, charging that it was meant as a Security for a Return of Part of the Fortune which Defendant had pretended to give him on his Marriage.

States, that on, &c. a marriage was in contemplation, and intended to be solemnized between Plaintiff and D. L. that it was thereupon proposed and agreed between the friends of Plaintiff and Defendant, M. L. the father of D. L. that the Defendant should convey and assure unto D. L. certain lands, &c. of which he was then seized in fee, and which, together with Plaintiff's real and personal estate, should be settled in manner between the said parties agreed upon.

That in pursuance of agreement, certain lands of Defendant, together with

with Plaintiff's real and personal estate, were, by indentures of lease and release, bearing date, &c. to the uses, upon the trusts, and in manner in that behalf agreed upon between the parties.

That at the time of the execution of the settlement, D. L. was prevailed upon by Defendant, his father, to execute some instrument in writing, which Plaintiff hath since discovered to be a bond or obligation in writing, dated, &c. (*states it.*)

That D. L. never received or was paid any consideration whatsoever from Defendant for the aforesaid instrument or bond, or for executing same, but the same was executed by him as an inducement for Defendant to consent to make such settlement as aforesaid of his said estates, and in consequence of some private agreement made between them, upon the occasion of the said marriage, Defendant having required and insisted upon having the same executed, as the terms and conditions on which he would consent and agree to make such settlement of his estate as aforesaid, in favour of his said son and Plaintiff; and said bond was moreover given and executed by D. L. without the knowledge or privity of Plaintiff, or any of her relations or friends, from whom the same was industriously and designedly concealed.

That marriage was had and solemnized—death of D. L. leaving Plaintiff his widow, who hath administered to him.

That bond having been given by D. L. upon the occasion aforesaid, and without any good or valuable consideration, Plaintiff hoped no claim or demand would have been made on the estate of D. L. in respect thereof. But now, &c.

Pretend, said bond was executed by D. L. for securing the repayment of the sum of £ to Defendant, and that such sum was by him actually lent and advanced to D. L. or that said bond was given for securing the payment of some debt or sums of money actually and *bonâ fide* due from D. L. to Defendant, or for some other good and valuable consideration, but the particulars of which such debts or consideration consisted, or when, where, or in whose presence such consideration was given or paid, or how, or in what manner, such debt arose, or became due, Defendant refuses to discover or set forth.

Charge contrary, and that Defendant never paid or gave, nor did D. L. ever receive any consideration whatsoever for the said bond, nor was D. L. at the time of the execution thereof, indebted unto Defendant in any sum of money whatsoever.

Charge, that bond was extorted from D. L. and he was prevailed upon to execute the same upon the account of the said marriage, or the execution of the said settlement; and some short time previous to, and in contemplation of said marriage with Plaintiff, as a security for and in order to compel him to repay to Defendant the sum of £ , in part of the fortune which Defendant had pretended to give his son on his said marriage, and the same was done with a view to deceive and impose upon Plaintiff and her friends, who would not (as Defendant well knows and believes) have consented to such marriage, had they known, suspected, or believed that Defendant would not give his said son so large a fortune as by the said settlement he pretended to give to him, or that any part of such fortune was to be repaid to him, or any security to be by him taken from the said D. L. for the re-payment of the same, or any part thereof,
and

and therefore said bond was a fraud upon the agreement made between the parties upon the occasion of the said marriage.

Charge, that Defendant was so well convinced, after the said bond was given, that he could not support any claim or demand against D. L. in respect thereof, that from the time of the date thereof, until the time of the death of D. L. Defendant never called upon him to pay any sum of money whatsoever, in discharge, either of the principal or interest due thereon, and that it was not till after the death of D. L. that he made any demand on Plaintiff of the money pretended to be due on said bond, when Defendant imagined it would be difficult to controvert such claim; and charge, that after he had made such demand on Plaintiff as aforesaid, and which was on or about, &c. on being informed by Plaintiff, that for the reasons aforesaid, amongst others, she did not consider herself liable to pay, or that she should be justified in paying such debt, Defendant acquiesced therein, and never made any demand upon Plaintiff, or took any measures to recover the same until on or about, &c.; and therefore Plaintiff insists, that in case the said bond had been originally good and valid, and given for a good and valuable consideration (but which Plaintiff doth not admit), said bond ought, at this distance of time, without payment of or demand for principal or interest, secured thereby, to be presumed to be satisfied; and that Defendant ought not now to be at liberty to set up the same, or to avail himself thereof.

Charge, that Defendant would not have neglected, for so long a time, to call for or require payment of said bond, or of the money secured thereby, but he imagined that he could have compelled the payment thereof.

Charge, that Defendant was, in the life-time of D. L. and since his decease, frequently in want, and often distressed, for money; and therefore, for the reasons, and under the circumstances aforesaid, Plaintiff is advised, and insists that said bond ought to be delivered up to be cancelled.

But Defendant insists on the contrary, and he hath lately commenced an action at law against Plaintiff, as the administratrix and personal representative of D. L. in his Majesty's Court of King's Bench, at Westminster, on the aforesaid bond; and he threatens to proceed to judgment and execution therein, well knowing that Plaintiff cannot make a good defence at law to the said action.

N. B. The prayer will be, that the bond shall be delivered up, and an injunction to stay proceedings at law.

Bill to have a Bond delivered up to be cancelled, which was obtained by Misrepresentation, and Injunction from proceeding on the said Bond.

Humbly complaining, shew unto your Lordship, your Orators I. L. of, &c. farmer, and I. L. jun. of, &c. the son of your Orator I. L. that T. C. late of, &c. but now deceased, and who was a coach-master, and also a farmer, did, in or about the beginning of the year dispose of part of his business as a coachmaster, and also his stage-horses to your Orator I. L. jun. for the sum of £ . And your Orators shew, that

that the said T. C. then occupied farms, at, &c. which were the property of F. S.; and the said T. C. represented to your said Orator, that he was entitled to the said farms, for the residue of a term of years, commencing, as to the meadow-land, at Christmas, and as to the rest of the premises, at Candlemas, at the annual rent of £ . And the said T. C. proposed to sell his said interest in the said farms to your said Orator, for the residue of the said term of years, at the price of £ . And your Orators shew, that your said Orator I. L. jun. thereupon agreed with the said T. C. to purchase his said interest in the said farms, for the said sum of £ ; and your said Orator not being prepared to pay the money, it was further agreed between them, that your Orator I. L. should join your Orator I. L. jun. in a bond for securing the said sum of £ to the said T. C. And your Orators shew, that Mr. H. the attorney of the said T. C. having by his directions prepared a common money-bond, from your Orators to him the said T. C. for the payment of the said sum of £ , and interest, your Orator I. L. objected thereto, and desired to have the transaction stated in the bond, to which the said T. C. answered, that it mattered nothing between them, but your said Orator not being satisfied with such answer, desired the said Mr. H. to make a minute in writing of the consideration for which the bond was really given as aforesaid, and the said Mr. H. accordingly made such minute in writing, with the consent of the said T. C. and then read the same over to your Orators, and the said T. C. who, upon hearing it, observed, that it was perfectly right, and your Orators then executed the said bond, which bears date, in or about the month of . And your, &c. that upon the execution of the said bond, your Orators entered into the occupation of the said farms, and have ever since occupied the same, but the said T. C. never made or executed any actual assignment of his said pretended interest therein, to your Orators, or either of them. And your, &c. that the said T. C. some time in the month of , departed this life, having first duly made and published his last will and testament in writing, and thereof appointed E. T. of, &c. and A. G. of, &c. the Defendants hereinafter named, executors of his will, who thereupon duly proved the same in the proper Ecclesiastical Court, and undertook the executorship thereof, and thereby became his legal personal representatives. And your Orators shew, that in the month of last, the said E. T. as steward of the said F. S. served your Orators with a notice to quit the said farms, at the end of the then current year, insisting, as the fact appears to be, that the said T. C. was only tenant from year to year of the said farms, and had no power to dispose of the same to your Orators, for the residue of the said term of years. And your Orators shew, that the said bond for £ and interest having therefore been given by your Orators to the said T. C. without consideration, and by reason of the false representations of the said T. C. that he had such interest in the said farms as aforesaid, your Orators have, by themselves and their agents, repeatedly applied to the said E. T. and A. G. and have requested them to deliver up to your Orators the aforesaid bond to be cancelled. And your Orators well hoped, &c. And although the said Defendants well know that the said bond was given by your Orators

Orators as a consideration for the supposed interest of the said T. C. in the said farms, for the residue of the said term of years, yet Defendants have lately commenced an action at law in his Majesty's Court of K. B. by special *testatum capias* upon the said bond, and have caused your Orators to be held to bail thereon, and the said Defendants threaten, and intend to proceed to judgment and execution on the said bond, unless they are restrained therefrom by the injunction of this honorable Court. To the end therefore, &c.

J. L.

N. B. The prayer will be, for the bond to be delivered up, and an injunction to restrain proceedings at law.

SECT. XIII.—BILLS FOR COPYHOLDS.

In the Exchequer,

Bill to ascertain the Boundaries of a Manor, and for an Injunction to restrain Defendant from cutting down Trees therein.

Humbly complaining, sheweth unto your Honors, your Orator E. H. of T. in the county of G., gentleman, debtor, &c. that your Orator now is, and for some time hath been, and his ancestors for many years have been seized in fee of the manor or lordship of S. in the parish of S. in the said county of G. together with all waifs and estrays, and all other the rights, royalties, members, and appurtenances thereto belonging or appertaining, and particularly to all the timber and trees, standing and growing upon all the lands, parcel of the said manor or lordship. And your Orator further sheweth, that the right honorable F. A. earl of B. now is, or claims, and for many years hath been, or claimed to be, and his ancestors for many years have been, or claimed to be seized in fee of the manors or lordships of B. C. and B. adjoining to the said manor of S. in the said county of G. together with all the rights, royalties, members, and appurtenances thereto respectively belonging or appertaining, and particularly to all the timber and trees standing and growing upon all the lands, parcel of the said last-mentioned manors or lordships respectively. And your Orators further sheweth, that the said earl of B. hath lately, without the knowledge, privity, consent, or approbation of your Orator, felled and cut down, or caused to be felled and cut down, a certain tree, which was standing and growing in the said parish of S. and upon part of the lands, parcel of the said manor or lordship of S. and which said tree belonged to your Orator as lord of the said manor of S. But the said earl of B. sold, for a large sum of money, which he received, or else he converted and disposed of the said tree to and for his own use and benefit, under a pretence, that the same was standing and growing upon part of the lands, parcel of the said manors or lordships of B. C. and B. or some, or one of them, or upon part of the lands, parcel of some other manors or manor, of or belonging to him, the said earl. And your Orator further sheweth, that the boundaries of the said manors or lordships of B. C. and B. respectively, and of such other manors or manor, of or belonging to the said estate as aforesaid, and also the boundaries of the said manor of S. have, by great length of time, and divers circumstances and accidents, been so obscured and confounded, that your Orator cannot ascertain the boundaries of the said manor of S. or distinguish the same from the boundaries of the said manors of some other manors of the said earl of B. But the said earl of B. from divers deeds and writings, maps, plans, terriers, (an ancient land-roll, or survey of lands,) books, and papers in his custody or power, and otherwise is able, and can ascertain and distinguish the same, and the boundaries thereof respectively, and whether any, and what parts or part in particular of the said parish of S. appertains, or belongs to the said manors or lordships

of

of B. C. and B. or to any, and which of them respectively, or to any other, and what manors or manor in particular, of, or belonging to him the said earl; however, the said earl refuses to ascertain the same. And your Orator charges, that the same cannot be ascertained without the assistance of this honorable court. And your Orator further charges, that when the said tree was cut down, your Orator asked the agent of the said earl, whether, if your Orator brought an action for the same, or for the trespass committed by cutting the same, and succeeded therein, said earl would decline committing any further trespass, and such agent answered, that said earl would, time after time, commit acts of trespass, and try the boundaries of your Orator's said manor, inch by inch, or to that effect, and he was directed, or authorized, or encouraged by the said earl to say so, or the said earl approved of what he so said when he heard thereof. And your Orator charges, that it is impossible to ascertain the boundaries of your Orator's said manor at law, or at least, without a great multiplicity of actions. And your Orator also charges, that the said earl now has, or lately had in his custody or power, several deeds and writings which shew, describe, and ascertain the said manors or lordships of B. C. and B. respectively, and the said other manors or manor, of or belonging to him the said earl as aforesaid, and the boundaries thereof respectively, and also the boundaries of the said manor or lordship of S. and which would clearly distinguish the same, and shew the extent of each of them, and whether any, and what parts or part in particular of the said parish of S. appertain or belong to the said manors or lordships of B. C. and B. or to any and which of them respectively, or to any other and what manors or manor in particular, of, or belonging to him the said earl, if he would produce the same to your Orator, but which he absolutely refuses to do, although he hath been repeatedly applied to for that purpose, by and on the behalf of your Orator. All which, &c.

Prayer.

And that the said earl may answer the several matters aforesaid; and that the said manor or lordship, and the boundaries thereof, may be distinguished and ascertained. And that a commission or commissions may issue out and under the seal of this honorable Court, directed to commissioners, for the distinguishing and ascertaining the same. And that all proper directions may be given relating thereto. And that the said earl, his servants, and workmen, may be restrained by the injunction of this honorable Court, from felling or cutting down, or causing to be felled and cut down, any timber or trees, standing and growing in the said parish of S. and particularly upon all or any of the lands, parcel of the said manor or lordship of S. and from committing any waste or spoil therein or thereon. And for general relief, &c.

H. R.

Prayer for a Letter Missive.

May it please your Honors, the premises considered, to grant unto your Orator, your Honors letters missive, to be directed to the said earl of B. thereby

B. thereby requiring him to appear to, and answer your Orator, and also his Majesty's most gracious writ or writs of injunction issuing out of and under the seal of this honorable Court, to restrain the said earl of B. from proceeding in the premises, touching any of the matters in question. And then and there, full, true, direct, and perfect answer make, to all and singular the premises, and further, to stand to, perform, and abide such further order, direction, and decree therein, as to your Honors shall seem meet. And your Orator shall ever pray.

Bill by a Lord of a Manor, for the Discovery and Payment of a Customary Rent of an Acre, Charging, that the Boundaries of the Lands subject, are not distinguished.

States, that Plaintiff is, and for the space of years past hath been, seized in fee, or of some good estate of inheritance, of, or well entitled unto the manor of S. in the county of with the appurtenances, and of or to divers lands and tenements, and various rents and services thereto belonging and incident.

That there are divers freehold lands and tenements, situate in the several hundreds of A. B. and C. which are, and from time immemorial have been, situate within, and holden of the said manor of S. in respect of which lands and tenements a certain ancient yearly rent of an acre, called culyer-rent, is, and from time immemorial hath been payable, and ought to have been paid on Michaelmas day in each year, by the respective owners thereof, to the lord of the said manor for the time being.

That it is, and from time immemorial hath been customary for the lord of the said manor for the time, or his steward, to keep or hold a court-leet and court-baron, within and for the said manor, on yearly, at which a freeholder is appointed culyer, to collect the said customary payment of an acre, and to pay the same to the said lord or his steward.

That a great part of the said rent of an acre, has accordingly from time to time been paid by the respective freeholders of the said hundreds, for the lands by them respectively holden of the said manor.

That the Defendant, during all the time that Plaintiff hath been seized of, or entitled to the said manor, hath been, and now is seized of, or well entitled to the freehold messuage and pieces or parcels of land and tenements hereinafter mentioned, (that is to say), &c. all which are situate in the said hundreds of A. and are in the tenure or occupation of Defendant, or of some person or persons holding the same of him, and all which premises, with the appurtenances, now are, and always have been holden of the said manor of S. under the said yearly rent of an acre, payable at Michaelmas day in each year, according to the old stile; and such rent was duly paid for the said premises, to, or for the use of the lords of the said manor for the time being, until Plaintiff became seized thereof, or entitled thereto. But that ever since, that Plaintiff has been so seized of, or entitled to the said manor, the said Defendant hath from time to time neglected

neglected or omitted to pay the said yearly rent to Plaintiff, but Defendant is seized of, or entitled to divers other lands and hereditaments within the said hundred of A. besides those hereinbefore mentioned, and in respect of which, no cullier-rent is due or payable to the said lord of the manor of S. And Plaintiff, by reason of the neglect of former stewards or bailiffs of the said manor, is unable to distinguish the said lands, in respect of which the said cullier-rent is payable, from the other lands of the said Defendant, of which no such rent is payable. But Plaintiff being well entitled as aforesaid, hath applied to Defendant, and requested him to pay what is due from him to Plaintiff, for the arrears of the said rent, in respect of the said premises belonging to him, for which the said rent is payable, and to discover to him which are the particular lands liable or subject to the payment of the said rent. And Plaintiff well hoped, &c. But now, &c.

Pretends, that the said premises before specified, are not, nor ever were holden of the said manor of S. or subject to such yearly rent as is above stated, or any other rent.

Pretends, some part only of the said premises, or that some other lands or tenements which belongs to him, has or have been, and is, or are, holden of the said manor, but what such part is, or what such other lands are, he refuses to discover.

Pretends, that no cullier-rent, or other rent, has been paid for a great length of time past, to, or for the use of the said lord of the said manor, for or in respect of any lands or tenements belonging to him, within the said manor, and that therefore, the same is not now payable, and that Plaintiff cannot insist on the payment thereof.

Charge, that the premises before specified, or the greatest part thereof, have or has always been, and now are, or is holden of Plaintiff's said manor, and under or subject to the said yearly rent of an acre, or some such rent, and that such yearly rent was always heretofore paid for the same, by or on the behalf of the owner of the said premises, or such part thereof, for the time being, to the use of the lord of the said manor for the time being, and continued to be so paid, until the time that Plaintiff became lord of the said manor, or thereabout.

That M. A. deceased, under whom the Defendant became seized of or entitled to the said premises, as his immediate successor, or in succession to some other person or persons, who was or were in the possession of the said premises between the time M. A. was last seized and the time when Defendant was first seized of, or entitled to the said premises, and who also paid the said rent in his life-time and to the time of his death, and that Defendant has paid the same since he became seized of and interested in the said premises; and as evidence of the said premises being within or belonging to the said manor, and holden of the lord of the said manor, and that such rent is payable in respect of said premises, Plaintiff

Charges, that in and by a certain of lands within the said hundred of A. belonging to the said manor, and holden of the lord of the said manor, at or by the said rent of an acre, which was made and signed by twelve jurors, freeholders of the said hundred of A., and given in by them at a court-leet and court-baron holden for the said manor, on the, &c. before R. S. the then steward of the said court,

all

all the premises above specified are mentioned, and specified as being within the said hundred of A. and belonging to the said manor, and holden of Y. Z. the then lord of the said manor, at and under the several yearly rents therein specified, being in the proportion and after the rate of per acre for all the said premises, but in case the payment of the said yearly rent of per acre, in respect of the said premises, or any part thereof was discontinued or omitted for any time before Plaintiff became seized of the said manor, and which he does not admit,

Charge, that some cullyer or cullyers for the time being of the said manor of S., was or were in some manner connected with, or influenced by the said Defendant, or some former owner or owners of the said premises, and therefore neglected or omitted to collect the said cullyer rent for the said premises, or such part thereof as was liable thereto.

Charge, that said cullver-rent has, within years last past, been paid by or on the behalf of former owner or owners of the said premises, or some part or parts thereof, or of some other lands belonging to Defendant within the said manor, to or for the use of some lord or lords of the said manor for the said premises, or some part or parts thereof, or for such other lands.

Charge, that Defendant hath in his custody or power divers or some receipts or discharges for the said cullyer-rent, and also divers or some deeds, evidences, entries, and memorandums, and other papers and writings, by which it appears that the said premises, or some part or parts thereof, or some other lands belonging to him, are or is holden of the said manor, and under the said yearly rent, and that such yearly rent has heretofore, and within years last past, been paid for the same, and Defendant well knows said matters to be true, but refuses to discover the particular lands belonging to him which are holden of the said manor under the said yearly rent. And Plaintiff, for want of knowing with certainty, and not being able to prove the identity of the lands belonging to Defendant which are holden of the said manor, and subject to the said yearly rent, is unable to proceed at law and distrain for the arrears of the said rent. All which, &c. To the end, &c.

Inquiry.

Inquire as to the deeds, &c. ; and that Defendant may set forth the same, or all such parts of them as relate to the said rent or the payment thereof, for the said premises, or any of them, and such other lands, or any part thereof, and all such receipts and discharges in the words and figures thereof, and may leave all such deeds, &c. in the hands, &c. And that he may set forth a true, perfect, and exact account or tenure of all the lands and tenements belonging to him, or which he is in anywise seized of or entitled to, situate within the said manor and holden thereof, under and subject to the said yearly rent, and may distinguish the boundaries of all such lands and tenements, the names of the occupiers thereof, and may set forth when last, and by whom, and to whom the said yearly rent was paid for the same.

Prayer.

Prayer.

That an account may be taken of the arrears of the said yearly rent due and payable from the said Defendant to Plaintiff, as lord of the said manor of S., for the said lands and tenements belonging to the said Defendants, and may be decreed to pay unto Plaintiff what shall appear coming from him to Plaintiff on the taking of the said account. And for further relief.

R. H.

Bill to establish the ancient Customs of a Manor, which the Lord departed from, to the great Oppression of the Tenants.

Humbly complaining, shew unto your Lordship, your Orators T. A. of, &c., A. B. of, &c. &c. who are all of them customary tenants of the manors and lordships of, &c. or of some of them, and of such other manors or lordships, if any, as are held under B. in the county of C., that all the said manors or lordships are and have been immemorially governed by the same or the like customs, both as to the payment of their fines, and in all other respects. And your Orators shew, that they and the other customary tenants of the said manors and lordships, which consists of acres, now are, and for several years last past have been, lawfully seized to them and their heirs respectively, according to the ancient and laudable custom of tenant-right, time out of mind used and approved of within the said barony, of certain customary freehold estates of inheritance descendable from ancestor to heir, of and in several messuages, lands, tenements, and hereditaments, within and holden of the said several manors and lordships, by payment of a certain ancient and accustomed yearly rent, and by payment of certain fines upon change of every lord by death, and of every tenant by death or alienation, to the lord of the said manor and lordship for the time being, as follows, viz. upon the change of every last admitted lord of the said manors or lordships by death, by payment of such fine as the next succeeding lord or his steward or agents have reasonably assessed, not exceeding a d. fine, or times the value of the amount so paid by each tenant, for or in respect of the customary or tenant-right estate so descending or aliened, which are called dropping descent, or alienation fines. And your, &c. that as well the said general fines, as the dropping descent or alienation fines, have time out of mind been assessed and paid according to the ancient yearly rent paid to the lord in respect of the estate or estates for which the same severally happened to become due, without any regard to the real or improved yearly value thereof; and that such estate and estates have been esteemed more or less valuable, and have been sold for a greater or lesser price in proportion as they were high or low rented, and that such of your Orators and the other tenants of the said several manors, and other ancestors as have been purchasers of customary estates held thereof, have always paid greater prices for such estates as have paid a small ancient rent, than for such estates in other respects

respects being of equal value as have paid a greater ancient rent, by reason of the said measure and method used and observed in assessing the said fines so due and payable in respect thereof. And your Orators further shew, that by ancient custom and usage, time out of mind used and observed within the said several manors, the respective tenants thereof have, and always had, a right to cut down and dispose of, and use all the underwoods growing on their customary lands and estates at their will and pleasure, and also to cut down and make use of, any timber growing on their said estates, for repairing of their customary messuages and buildings, and for hedge-boot, cart-boot, plough boot, fire-boot, and all other necessary uses about their customary estates, which your Orator and the other tenants of the said manors are obliged to keep in good repair, and also have been, and are absolutely entitled to their own use, and to be sold and disposed of as they should think proper, all the trees growing on their hedges, and commonly called hedge-row trees, for which they pay a rent called green lew; and also to get lime-stone out of any quarries upon or within their respective customary estates, or any waste grounds and commons of the said manor and lordships respectively, and burn the same, in order to be laid upon and consumed upon their said estates, and also to get stones out of any quarries upon their said estates, or upon the said waste grounds or commons of the said manors or lordships respectively, for building or repairing their customary messuages, barns, walls, hedges, or other buildings and erections upon, or to be erected upon the same, upon the scites of ancient messuages, and for that purpose to open new quarries of stone within their said estates, or on any of their waste grounds or commons of the said manors and lordships; and also to turn their cattle, *levant et couchant*, upon their respective estates, upon the wastes or commons belonging to the said manors and lordships, and particularly upon a late large waste or common called I., part whereof is within the said manor of A. and part in the manor of T., to graze thereon in the summer time, and to erect houses and sheds upon such wastes, to reside and live in during such time, for the conveniency of milking their cows and making cheese and butter there, such tenants paying, to or for the use of the said barony, for or in respect of such privileges per head yearly for their horned cattle, and per head yearly for their horses; and also to cut up and carry away turf, peat, heath, furze, and brakers or fern, on any of the said commons or wastes, for fuel and for thatching their customary messuages and buildings, and to plough up their several customary lands as they should think most advantageous, and to demise, lease, and to farm let, their said customary estates, for any term not exceeding years, and to mortgage the same, redeemable at the end of any term or number of years not exceeding years, without any licence from the lord of the said manor, and without paying any fine on that account; and also to change their customary estates of equal value with each other, where the same lie intermixed in common fields, or dispersed at a considerable distance, for the improvement thereof, without having any licence, as in the case of alienation, from the lord, or paying him any fine on that account, so as that the ancient rents and services for the lands so exchanged were preserved. And your Orators farther shew, that the said customs, and others very beneficial to your

Orators

Orators and the several other tenants of the said manors and owners of estates held thereof, have, time out of mind, been used and obtained within the said manors respectively. And your Orators and their ancestors, tenants of the said manor, have, time out of mind, peaceably held and enjoyed their respective customary estates under such usages, customs, and privileges as aforesaid. And your Orators further shew, that all or most of the estates of the said tenants of the said several manors are lying near the borders of Scotland, and were heretofore barren and but of little benefit to the respective owners thereof, and the same have within a few years last past been at a very considerable expence, at most amounting to near as much as the inheritance of such estates were worth, being improved and brought into a method of agriculture, so as to be in some respects beneficial. And your, &c. that your Orator T. A. is a tenant of the said manor of A., and is seized or entitled to him and his heirs, according to the customs of the said manor, of cottages, and a messuage and tenement within a parcel of the said manor of A., of the ancient yearly customary rent of ; and that your said Orator became entitled to the said customary and tenant-right premises upon the decease of A. C. his late father, and as his eldest son and customary heir, and thereupon your Orator became entitled to be admitted thereto, and to hold and enjoy the same peaceably and quietly, on payment or tender of a *d.* fine at the utmost. And your Orator I. B. is a tenant of the said manor of B., and is seized and entitled to him and his heirs, according to the custom of the said manor, of messuages and a tenement, within and parcel of the said manor of B., of the ancient customary rent of ; and that your said Orator became entitled thereto upon the decease of, and as eldest son and customary heir to H. B. his late father deceased, and ought to have been admitted thereto, and held and enjoyed the same peaceably and quietly, on payment of a *d.* fine. And your Orators further shew, that they have often applied to the said earl and his stewards to admit them tenants to the said estates, upon payment of their respective fines so due in respect thereof as aforesaid, which they several times offered, and hereby offer to pay to him on their being severally admitted thereto, according to the custom of the said manors, wherof the same were respectively holden ; but the said earl absolutely refused to comply therewith, and instead thereof, at the instigation and by the persuasion of I. S. his steward, has assessed very excessive and extravagant fines upon your Orators in respect of the said estates, and in order to compel your Orators to pay the same, has brought several ejectments against your Orators for non-payment of the said fines, and also brought, or threatens to bring actions at law against your Orators. And your Orators further shew, that as such multiplicity of suits can tend only to the destruction and ruin of your Orators and the rest of the tenants of the said manors, and to the perpetual disquietude and disturbance of the peace, as well of the tenants as of the lord of the said manor, and can be of no real good or benefit to the said earl, your Orators have therefore several times applied to the said earl, and requested him either to suffer your Orators and the other tenants of the said manor peaceably and quietly to enjoy their said several customs, or that the same might be tried in a fair and candid manner in one action, by proper issues, to be directed to this honorable court, which

would effectually and perpetually settle the said several customs, and establish peace in the said barony for all succeeding generations, in regard not only to your Orators, but the other tenants of the said barony. And your Orators and the other tenants of the said barony are ready to submit thereto, and to be bound by such determination; with which fair and reasonable requests your Orators were in hopes the said earl would have complied, but now so it is, &c. that the said earl, in conjunction with the said I. N. his steward, in order to oppress your Orators and deprive them of their several customs, refuses to comply therewith alleging that arbitrary fines are due to him within the said several manors upon the death of each customary tenant, and upon all alienations, and that he can assess what fines he pleases, so as the same do not exceed two years full improved value for the estate for which such fines are assessed, and that the two years value is not to be measured or computed according to the rent paid by the tenants and farmers thereof, but according to such value as he, his own stewards, bailiffs, officers, or agents, shall from time to time adjudge the same, exclusive of any person attending on behalf of the tenants; and that so it appears by several deeds, papers, and rentals in the custody of the said earl, and also that such arbitrary fines as aforesaid have always been assessed and paid within the said manor, whereas your Orator expressly charges the contrary thereof to be the truth, and that the said fines are not arbitrary but limited, so as the same do not exceed a *d.* fine, or *d.* times the value of the old rent as aforesaid, which your Orators insist is the very highest fine that can with any degree or colour of justice be taken, and that such fine even exceeds the ancient method or custom of assessing fines from your Orators. And your Orators expressly charge, that the said several manors formerly belonged to the family of the D.'s and were forfeited for high treason in the reign of *Henry VIII.*, and then came to the crown, and continued in the crown for several years, and were afterwards granted by the crown as a bounty, and without any real consideration, to an ancestor of the said earl, or to some person or persons under whom he claims. And your Orators also charge, that while the same continued in the family of the D.'s, and while in the hands of the crown, sometimes a *d.*, sometimes a *d.*, and sometimes a *d.* fine, and seldom or never more, on deaths or alienations, was taken, and so it appears by several ancient deeds, papers, and rentals, copies whereof were lately in the custody of the said earl, and the same fines were also accepted by the said earl's ancestors for several years. And that the great grandfather's father, great grandfather, and grandfather of the present earl, first attempted to break in upon the said customs, and particularly assessed considerably higher fines than ever had been done, and even by degrees carried such fines to a *d.* *d.* *d.* *d.* *d.* *d.* and *d.* and in some very few instances to *d.* *d.* and *d.* fine, yet they always constantly and invariably assessed the same according to the rate, proportion, and income of the old rate, and there are no ancient instances of assessing fines otherwise. And there was no attempt, or evidence of any attempt, till within the memory of man, of assessing such fines, according to the improved value of the said estates. And it particularly appears by several deeds actually licensed by the ancestors of the present earl, that according to the custom of the barony of

G. at *d.* or *d.* fine, according to the old rent and no more, upon a descent, and a *d.* or at most a *d.* fine, according to the like custom of the said barony upon alienations was and ought to be taken. And your Orators expressly charge, that the same would appear by several ancient deeds, papers, and rentals, now, or lately in the custody of the said earl; and though the design of breaking the said customs has been formed, and proceedings and encroachments thereon have been gradually making for several years, yet the same was carried on with great secrecy, by first assessing a *d.* fine, then proceeding to a *d.* fine, and so on, and never openly avowed till the lord and his steward had in a few instances raised the fine accruing to an extravagant number of years old rent, to be equal to one year's improved rent, and by which means imagined that all traces of the said ancient customs were utterly effaced, and incapable of being proved. And your Orators further charge, that though it should appear that more may have been assessed, that the same were never admitted to or paid, or if paid, the same were by some private agreement between the lord and tenant, and the overplus returned to the tenant; or if there are any instances where such fines were ever paid without such private agreement, they are but very few, in cases where the tenants were not able to contend with the lord, and rather chose to pay a small sum more than they were obliged to pay, than enter into a suit about the same; and that the practice was not so anciently, but is an innovation of the respective lords of the said manors and their stewards as aforesaid. And your Orators charge, as an evidence thereof, that there is no instance of more than a *d.* fine having been paid within many of the said manors till within years, or thereabouts, and that within that time, and within years last past, and less, there are great numbers of instances of fines paid not exceeding a *d.* fine. And your Orators further charge, that the said earl and his stewards, under such pretences as aforesaid, have lately, in great numbers of instances where the said tenants have alienated their customary estates, assessed and taken near years improved value of such estates for a fine, without any deduction or allowance for land tax or other outgoings, and without having or paying any regard to the great sums of money laid out by the said tenants in improving their said estates; and that till the time of the said I. N., the said earl's present steward, no such excessive fines as are now demanded were ever assessed or paid, and before his time no more than years value was ever taken in any instance. And the said I. N. hath made merit of such his oppressions, by frequently declaring that he hath advanced the said fines £ a year, or some such large sum, higher than they ever were advanced before. And your Orators charge, great numbers of the tenants who have but small estates are by such means utterly ruined, in regard their estates having been so many centuries valuable, are now almost reduced to a footing with, and of little more value than, tenancies at will only. And your Orators further charge, that the said earl should be entitled to assess arbitrary fines in respect of the said estate, which your Orators don't by any means admit, yet your Orators even in that case humbly submit to the judgment of this honorable Court whether, according to the rules at law, more than years value of the said estate ought to be paid for a fine, and humbly insist that the true measure

sure of such value is in the rent paid by the farmer and tenant thereof; or if the same is unlet, that your Orators ought to have some person present at the time of the valuation thereof by the said earl, &c. as a check upon them, and that all taxes charged upon the estate, and other outgoings, ought to be allowed and deducted out of such fines in the computation thereof. And your Orators further charge, that some scheme or design was several years ago entered into and laid before, and has been from time to time executed by the said respective lords of the said manors, in order to defeat and break through the customs of the several manors, by persuading some of the tenants to take receipts for fines exceeding a *d.* fine, were in fact only paid after or under that rent or measure, under pretence that the same should not in any shape affect them, as they paid no more than was really due from them; and by prevailing on others, who were either bailiffs under the said lords, or their immediate servants or dependents, or otherwise under their influence, and by threatening others who were timorous with suits, and by prosecuting the tenants severally and at several times, to pay such fines as were assessed upon them, or they were induced to agree to by promises of great abatement, or to have part of the money returned, so as to reduce the said fines according to the said ancient measure, and by promises of future favors, or by such or the like inducements; and that no bill was ever brought by any of the said lords against the tenants in general, touching the said customs, which upon the death of a lord might have been the case, it is ever admitted and never disputed, but that a *d.* fine was the extent of what the lord could take, and the same was never attempted to be changed or varied by the lord, in regard it would have become the general and immediate concern of the whole barony, but in case of descents and alienations, as such did only immediately concern the respective persons purchasing or becoming entitled by descent, and infringement and alteration of the customs in that respect became easy and practicable. And your Orators also charge, that many other methods have been lately contrived to break the said customs, and in particular, that in cases of alienation of any customary estates, to any person not before a tenant of any other customary estate within the said barony, the said lord and his steward took advantage of the ignorance of such purchaser of the customs of the said barony, and therefore exacted and took from him, over and above the alienation fine assessed, a further sum of money, sometimes more or sometimes less, but generally , which the steward called an income fine, which your Orators insist is a mere innovation, and totally without foundation in custom, and an absolute imposition. And your Orators also charge, that they have not only taken the pretended income fine, but made, and now do make use thereof in aid of their attempts to break the fine certain, by having repeatedly added such pretended income fine to the fine certain for several years past, and that, by adding them together, and not distinguishing them in their receipts, have greatly confounded and perplexed the customary payments in several instances. And your Orators also charge, that divers methods were taken and pursued from time to time by the respective lords and their stewards, in order to keep the tenants of the said manors ignorant of, and unacquainted with their respective rights and customs, by getting into their custody and retaining

all deeds, papers, and rentals, which in any respect tends to explain or shew the same. And in particular your Orators charge, that within the said several manors it is, and for several years hath been, usual and common for the lord's steward thereof, or his agent, who is generally an attorney at law, as the said I. N. is, to prepare and draw all deeds of alienation, to the tenants, or from the tenants, to any other person or persons without the interposition of any other attorney or agent, or friend of the vendors or purchasers, though he hath not, nor ought to have any right so to do, in regard that the said practice may be, and actually has been a great means of, and has given them great opportunities of imposing upon the tenants, and subverting their customs, which hath actually been done, or attempted; for that such of the tenants, or most of them as have so aliened their lands, have been, from time to time, prevailed upon by their respective stewards or agents, to bring all their old deeds, &c. to them, under a pretence of looking into the title, and which they have always kept and retained, and only returned the new purchase deed or deeds, alledging that the same was sufficient to shew the title of such estates; and the said earl and his steward, designing to break not only the customs relating to the measure of the said fines, but all other the ancient usages and customs of the said manor, pretend, and give out that your Orators, and the other customary tenants within the same, have no right to cut down and dispose of any of the underwoods growing on their customary lands, nor of any other wood or timber growing on their said estates, for the repair of their houses and other ancient buildings on their said customary estates, and other necessary boots, without licence from the said earl or his steward, nor with such licence, to get any other stones for repairing or rebuilding upon their said estates, or to open any new quarries upon the waste of their respective manors for that purpose, nor to cut up or carry away any turf, &c. growing or being on any of the said wastes or commons, for fuel, or for thatch, for their said customary messuages, nor to turn their cattle upon the waste or commons of the said manor in the summer, to graze and depasture there, or to erect houses there to reside in during such time, for the purposes aforesaid, nor to demise, &c. any of the said customary estates, for any term of years, or exchange the same, or any part thereof, without such licence, and without payment of a fine, by the person so letting and exchanging to the lord, and that it is discretionary in the lord or his steward whether he will or will not grant such licence in any of the said cases. Whereas your Orators charge the contrary thereof to be the truth, and doubt not to be able to prove, to the satisfaction of this honorable Court, that by ancient custom, time out of mind used and approved within the said several manors, your Orators, and all other customary tenants within the same, have not only had and taken from off any parts of their said several estates, wood for house-boot, &c. and all other necessary conveniences, but have also immemorially had and taken their hedges and trees growing on the hedges of their customary estates, to sell, give away, or dispose of, as they should think proper; and that they have also, till the time of the said I. N. the present steward, not only had lime and other stones as aforesaid, but they have always had a right, and have always cut up and carried away turf, &c. within the wastes and commons, for the purposes aforesaid; and also, from time to time, to turn their cattle

cattle upon the waste and commons to graze, and to erect houses and sheds to live in, as aforesaid. And particularly, your Orator charges that there is a large tract of waste or common ground, called S. within the manor of B. which your Orators, and the several other tenants of the several other manors within the said barony, and in particular of, &c. and the other adjoining manors, and their ancestors, from time immemorial used to enjoy, in the summer season as aforesaid, till within these years, when the lord of the said manors, without the consent of your Orators, and the rest of the tenants, took upon himself to exclude them from such their enjoyment thereof, and to let the same to such persons as he thought fit, at a rack rent. And your Orators also charge, that they have a right, and ought to be at liberty to lease and mortgage their several customary estates, for such terms as aforesaid, and also to exchange the same without any fine, or having any licence from the said earl and his steward, and that they have enjoyed all such liberties and privileges without any interruption, till very lately; and the said earl and his steward, at other times, give out, and pretend, that though it should appear that your Orators, and the other tenants, were anciently entitled to such customs as aforesaid, yet that a dispute having arisen between the late earl, father of the present earl, and some few of his tenants, about years ago, the same was referred to arbitration, and an award then made, whereby the said fines were then settled and allowed to be arbitrary, and at the will of the lord; and that, if there were originally such customs as are insisted on by your Orators, the same are destroyed and defeated by such award, as the same has ever since been submitted to by the said tenants, and that therefore they ought to be bound thereby. Whereas, your Orators charge, that no such award was ever made; or if there was any such, the same was brought about by the said earl's father, or his steward, which steward was a person who frequently endeavoured to break through and alter the customs, and by fair representations, and by the great influence which he had over the parties concerned in making the same, and that no written proof, on behalf of the tenants, as to the matters so deducted, was laid before such arbitrators, but the same was concealed by the then lord, and that therefore the same is invalid, and of no effect; or if otherwise, yet that none of the tenants ought to be bound thereby, except such as were parties to such submission, if any such there were, and that there were not more than the number of who signed or agreed to such submission. Whereas the whole number of the tenants exceeded six hundred; and even those who signed were influenced by threats to sign the same, and all, or the greater part of them, were dependant upon the said lord or his steward, which said steward was so conscious that he had drawn in and imposed upon them, that he frequently declared and admitted, both on his death-bed and before that, what he had done in that respect, and also in other matters, whereby he had broke in upon the said ancient customs, gave him so much uneasiness of mind, that he could not die in peace without declaring the same, or to that effect. And your Orators charge, that such award was never acquiesced in or submitted to, and that some of the said tenants, before the said award, and since that time, through the threats of the said lord and his steward, may have been induced to pay greater fines than they were bound or obliged to; yet the same was never, from consciousness that such fines were

were really due, but they always declared it was through fear, and to avoid the expense of suits, and their inability to contend at law with a person of the great influence and fortune of the said respective lords of the said manors; and the said earl and his steward at other times alledge, that the several estates holden of the said manors are not of the nature of trust right or customary tenure, but are merely tenants by copy, at the will of the said lord, and that they have several decrees, or copies of decrees, which will clearly shew the same. Whereas your Orators expressly charge the contrary thereof to be the truth; and that if there be any such decrees, the same were obtained partially, and by collusion, and are not warranted or supported by, or grounded upon any evidence whatsoever, and are therefore not warranted by law; and the said earl and his ancestors are, and were so sensible thereof, that they never have insisted thereon, but frequently, both before and since, have admitted that the said estates were tenant right estates; and that it so appears, by several deeds, &c. in the custody of the said earl and his stewards, or agents, or of some person or persons with his or their knowledge and consent. And your Orators charge, that the said earl and his steward, on the occasion of the said pretended submission and award, prevailed on the arbitrators and manager, to deliver up all such deeds, &c. as were produced, or intended to be produced on that occasion, and still have the same, and having, by the several means aforesaid, and by other means, got into the custody or power all the ancient deeds, &c. belonging to the tenants of the said manors, and also all the court books relating to the payment of fines, but all other the said customs plainly appear, refuse not only to produce the same on any trial at law, and without which no fair trial can be had, nor the said customs, or the peace of the lord and tenants settled and established, which your Orators, and the rest of the tenants, are very desirous of, but refuse to suffer your Orators to peruse and inspect the same, and deprive your Orators and the other tenants of the necessary evidence to support their said customs, under a pretence that a great part of such ancient deeds, &c. were, several years ago, burnt or destroyed. Whereas your Orators charge, that if any of them were burnt or destroyed, the said earl and his agents have preserved copies thereof. And the said earl also alleges, that there are some other persons, who, under some deeds, settlements, or limitations therein, is or are, or will be entitled to the said manors after him, or to some right, title, or interest in the said manors, or some part thereof; and that such person or persons will not be bound by any decree, verdict, or other determination, to be had or made between them and your Orators, and the rest of the said tenants, but refuse to give your Orators any further satisfaction therein, or to discover such person or persons which your Orators are advised is requisite to be done, in order that they may be made parties, and thereby the customs of the said manors completely settled and established. And your Orators also charge, that no trial can be had according to the course of common law, touching the several customs out of the county of Cumberland; or if in any other county, yet not without a jury of that county, and that such trial would not, nor could be fair and impartial (in regard the said earl is entitled, and would try the same with a special jury), not only by the said earl's great interest in the said common, but also in regard all, or most of all, the gentlemen in the said county, capable of serving on special juries,

juries, are lords of manors, governed by the like general customs. All which, &c. To the end, &c. &c.

Prayer.

And that the said ancient custom of paying fines, and all other the said customs before mentioned, may be settled and ascertained, and for that purpose, that one or more issue or issues at law may be directed by this honorable Court, in some indifferent and disinterested county, to try and ascertain the same; and that, in order to enable your Orators and the rest of the said tenants to proceed in such trial, the said earl and his steward may, antecedent thereto, produce all such decrees, deeds, &c. any way relating to the said several customs, in their, or either of their custody or power; or if any other person whatsoever, for their or either of their use, or in trust for them, or with their knowledge, privity, consent, or procurement, for your Orators inspection and perusal; and that the said several customs may be established by the decree of this honorable Court; and that the said earl and his steward may be decreed to permit your Orators, J. A. &c. peaceably and quietly to enjoy the said several estates, from payment of what shall appear to be due to the said earl, in respect of their said several fines, which they hereby severally offer to pay; and that, in the mean time, and until the said customs shall be established, an injunction may be awarded by this honorable Court against the said earl, to stay further proceedings at law against your Orators, upon the said ejectments, and to prevent the said earl from recovering possession of your Orators said estates. And for further relief.

T. C. R. W. and C. Y.

N. B. The prayer for a letter missive ought to have been added.

Bill by a Claimant of Freehold and Copyhold Estates, under a Settlement, praying against the Persons in Possession, a Surrender of the Estates, and an Account of Profits; also the Affidavit to support the Bill.

Humbly complaining, sheweth unto your Lordship, your Orator, &c. S. A. of, &c.

That W. A. late of, &c. deceased, Plaintiff's late great grandfather, intermarried with one M. W. and being seized in fee-simple, or of some other good estate of inheritance, in possession of and in a certain freehold cottage, messuage, or tenement, and acres of arable land, or meadow and pasture ground, with the gardens, orchards, and appurtenances therunto belonging, now in the occupation of one T. S. and other freehold messuages, lands, tenements, and hereditaments, situate, &c.; and also seized in fee to him and his heirs, according to the custom of the manor of, &c. in a copyhold estate, consisting of, &c. now also in the occupation of the said T. S. did, previous to such his marriage with the said M. W. and in consideration thereof, by indentures of lease and release, or some other deed or deeds, duly executed by him, convey and assure, and covenant and agree to surrender to certain trustees therein named,

all

all the said freehold and copyhold estate and premises, of him the said W. A. upon trust, and for the use and behoof of the said W. A. and M. his wife, during their natural lives, and the life of the survivors of them, with remainder after the death of such survivors, to the first and other sons of the said W. A. and M. his wife, successively in tail or in tail male, with remainder to the said W. A. in fee, or to some other use or uses. And he the said W. A. did, after making such settlement as aforesaid, also surrender the said copyhold estate and premises into the hands of the lord of the said manor, to the uses mentioned and declared in such settlement, as in and by, &c.

That after the making the aforesaid settlement of the said freehold and copyhold estates, the said W. A. and M. his wife, departed this life, leaving, or having had three sons, namely, W. their eldest son, who died very young, and without issue, either in the life-time of his father and mother, or soon after their death; J. their second son, who had one son only, namely, J. who died unmarried and without issue; and T. their third son, Plaintiff's grandfather, and who departed this life some years since, leaving S. A. his widow, and three sons, namely, T. W. and E. and which last-named T. who was Plaintiff's father, left two sons, namely T. his eldest son, who is dead without issue, and Plaintiffs; so that Plaintiff is now become the heir-general and heir in tail of his said grandfather, the said first named W. A. and as such is, as he is advised, and humbly insists, become entitled under and by virtue of the said indentures or indenture of settlement or otherwise, to all the freehold and copyhold estates and premises beforementioned, as tenant in tail thereof in possession, with remainder to himself in fee. And Plaintiff well hoped, that he should accordingly have been let into the possession thereof, and have been permitted to hold and enjoy the same, and receive the rents and profits thereof. But now, &c. S. A. the widow of T. A. Plaintiff's grandfather W. A. of, &c. Plaintiff's uncle, combining, &c.

Defendants, or one of them, have or hath got into the possession or receipt of the rents and profits of all the said freehold and copyhold estate and premises, and also have or hath got into their, his, or her hands, custody, or power, the said indentures or indenture, or other deeds or deed of settlement above mentioned, and also all the title deeds, muniments and writings, surrenders or admissions, belonging or relating to the freehold and copyhold estates and premises above mentioned, and which Plaintiff is entitled to the custody or possession of.

Pretext, that no such settlement as above mentioned, or any other settlement was ever made, or agreed to be made by the said W. A. Plaintiff's grandfather, of the said freehold and copyhold estates, or any part thereof.

Charge, that the said confederates, or one of them, now hath or have, in their, his, or her custody or power, the said deeds or deed of settlement, and all the title deeds, muniments and writings, surrenders and admissions belonging and relating to the said freehold and copyhold estate and premises, whereby it appears, that the said estate was settled in strict settlement, or otherwise, in such manner, as that Plaintiff is entitled as heir general or heir in tail of the family, or that, if they have not now in their custody or power, or have, or hath heard of, or seen the same, and they, or one of them, have lately had the same, and have or hath

hath burnt, or otherwise destroyed the same, or know where the same are or is, or what is become thereof; or they, or one of them, have, or hath had in their, his, or her custody or power, some counterpart or copy, abstract or extract of the said deeds or deed of settlement, or some memorandum thereof, or paper, or writing, wherein the same is recited, referred to, mentioned, or taken notice of; and at other times, confederates admit the several matters above charged; but,

Pretend, that Plaintiff hath no right or title whatsoever to the said freehold and copyhold premises, or any part, notwithstanding the aforesaid settlement, for that, as they pretend, the said W. A. Plaintiff's great-grandfather, was tenant in tail of the said freehold and copyhold estates, under and by virtue of the said settlement, and had a right to suffer, and did duly suffer a recovery of the said freehold premises at common-law, and also suffered a recovery of the said copyhold premises in the Copyhold Court, according to the custom of the said manor, of, &c. and afterwards duly made and published his last will and testament in writing, and devised the said freehold and copyhold estates, to his son T. Plaintiff's grandfather in fee or in tail; and that Plaintiff's said grandfather duly suffered a recovery of the said premises, and declared the uses of the said recovery to the said T. for his life, with remainder to the younger child and children of T. and S. and should be so at the death of the survivor of them, the said T. and S. and their heirs, under and by virtue of the uses of such recovery, they, the said confederates insist, that she the said S. A. is entitled for her life, and that he the said W. A. will become entitled upon the death of his mother the said S. A. to the fee and inheritance of and in the said freehold and copyhold estate and premises.

Charge, that the said W. A. Plaintiff's said late great-grandfather, never did effectually suffer any recovery thereof, or if he did, he did not make any effectual and valid disposition thereof by his will, and that therefore, the said freehold and copyhold estates are now descended to Plaintiff, in manner aforesaid.

Pretends and insists, that he is entitled to the said freehold estate and premises, under and by virtue of some indentures of lease and release, or other deeds or deed executed by the said T. A. Plaintiff's father, in his life-time, whereby he, the said T. A. did, as the said confederate pretends, convey to him and his heirs, the said freehold estate and premises, or that he is in some other manner entitled thereto. But he the said confederate refuses to produce or shew to Plaintiff such pretended indentures of lease and release, or other deeds or deed of conveyance from Plaintiff's father.

Charge, that Plaintiff's said late father never did execute any indentures of lease and release or other deeds or deed, whereby he conveyed such freehold estate and premises, or any part thereof, to him the said Defendant W. A.

And at other times Defendant admits, and hath frequently declared, that Plaintiff is entitled to the fee and inheritance of and in the said freehold and copyhold estate and premises, under and by virtue of the said indentures or indenture of settlement, and all the title deeds, muniments, and writings, belonging and relating to the said freehold and copyhold estate and premises, and hath proposed to give some premiums or consideration to Plaintiff, if he would give up his right to the said estate and premises,

premises, or join with them in a conveyance thereof to a purchaser. But nevertheless, they refuse to deliver up the said estate, and the said title deeds and writings to Plaintiff, or to suffer him to peruse and inspect the same, or take copies or abstracts thereof; and having got into their custody the said settlement and surrender made by Plaintiff's said great-grandfather, or some other of Plaintiff's ancestors, whereby the legal estate in the said premises was vested in, and now stands out in the Trustees named therein, or the survivor of them or his heirs. And also having got into their hands some old mortgage deeds and conditional surrenders, and also all the title deeds, muniments, surrenders and admissions, relating to the said freehold and copyhold estates. They not only refuse to let Plaintiff into possession of the said estates, or to account with him for the rents and profits thereof received by them respectively, or to deliver unto Plaintiff the said settlement, title deeds, muniments, surrenders and admissions, but also threaten, that if Plaintiff should bring an ejectment, to recover the possession of the said estates, they will set up some concealed deed or will, or some old mortgage term of the said settlement made by the said W. A. Plaintiff's said great-grandfather, or some other deed to defeat that, the legal estate in the said premises is not in Plaintiff, and thereby defeat Plaintiff of his remedy at law. All which, &c. To the end, &c.

Prayer.

That the said W. A. may be decreed to deliver up to Plaintiff the possession of the freehold and copyhold estate and premises above-mentioned, free from all incumbrances done by them, or either of them. And also the said indentures or indenture, or other deeds or deed of settlement executed by the said W. A. Plaintiff's said great-grandfather as above mentioned. And all other title deeds, muniments and writings, surrenders and admissions, belonging or relating to the freehold and copyhold estates and premises above mentioned, in their custody or power respectively. And that they may be also decreed to come to a just and fair account with Plaintiff for, and to pay to him all the rents and profits of the said freehold and copyhold estates and premises which have been received by them, or either of them, or any other person or persons, by their, or either of their order, or for their, or either of their use, or which, without their wilful neglect or default, they might have received. And for further relief.

J. H.

In Chancery.

Between S. A. Plaintiff.

and

S. A. and W. A. . . . Defendants.

S. A. the Plaintiff in this cause, maketh oath, and saith, that he this deponent hath not, nor to the best of his knowledge, remembrance, or belief, ever had, all, or any of the deeds, evidences and writings relating to the estate in question in this cause, and which are mentioned in this deponent's

ponent's bill, exhibited in this honorable Court, against the said Defendants, nor doth this deponent know where the said deeds, evidences, and writings, or any of them now are, unless they be in the custody or power of the said Defendant S. A.

Bill by Devises, to have a Surrender from Heir at Law, of Copyhold Premises which had been devised but not surrendered, to the Use of Testator's Will, whereby the legal Estate descended to the Heir at Law.

Humbly complaining, shew unto your Lordship, your Orator and Oratrix, R. F. of, &c. and J. B. of, &c. widow, that, at a Court holden for the honor and manor of H. C. on or about the day of , E. P. late of H. in the county of M. innholder, and S. his wife, were admitted to a piece of copyhold land, with the erections and buildings thereon, to the use and behoof of the said E. P. and S. his wife, during their lives, and the life of the longer liver of them, and after the decease of the survivor, to the use and behoof of the heirs and assigns of the said E. P. for ever, as in and by the admission, reference being thereto had, in the court rolls of the said honor and manor will more fully appear. And your, &c. that the said E. P. duly made and published his last will and testament in writing, bearing date, &c. and the said Testator thereby, amongst other things, gave and devised to his said wife S. P. all and singular his freehold and copyhold estates, of what nature or kind soever, to hold to his said wife S. P. her heirs and assigns for ever; subject to an annuity of £ to be paid to the said Testator's sister A. P. for the term of her natural life. And the said Testator afterwards departed this life without having in any manner altered or revoked his said will, leaving the said A. P. and H. W. his co-heirs at law, and customary heirs. And your, &c. that the said S. P. the widow of the said Testator, upon his death, entered into possession of the said copyhold estate, holden of the honor and manor of H. C., or into the receipt of the rents and profits thereof, and continued in such possession or receipt until her death. And your Orator and Oratrix shew, that the said S. P. duly made and published her last will and testament in writing, bearing date on or about, &c. and thereby, amongst other things, gave and bequeathed the aforesaid copyhold estate, by the description of all her, &c. unto your Orator and Oratrix, who were her nephew and niece, to hold the same as tenants in common, and not as joint tenants, or to dispose of the same as they should see fit, and the nett produce thereof to be equally divided between them, as in and by, &c. And your, &c. that the said S. P. departed this life, in or about, &c. without having altered or revoked her said will, but who the said S. P. left her heir at law your Orator and Oratrix have not been able to ascertain. And your Orator and Oratrix shew, that the said E. P. never surrendered the said copyhold premises at H. to the use of his will. And that upon his death, the legal estate in the said copyhold, descended to his said two sisters as his customary heirs, but the beneficial interest therein passed by his said will to his said wife S. P. and has since
passed

passed by the said will of the said S. P. to your Orator and Oratrix. And your Orator and Oratrix shew, that the said A. P. and H. W. the sisters of the said E. P. are both since dead, and that the legal estate in the said copyhold premises has descended to and is now vested in E. W. of, &c. spinster, the Defendant hereto, who was the only child of B. W. who was the only son of the said H. W. And your Orator and Oratrix shew, that being entitled in right of the said S. P. the widow of the said Testator, to have the warrant of a surrender of the said copyhold premises by the said Testator supplied, they have, by themselves and their agents, repeatedly applied to the said Defendant, and have requested him to surrender the said copyhold premises, to the use of your Orator and Oratrix and their heirs, as tenants in common, according to the said will of the said S. P. And your Orator and Oratrix well hoped, &c. absolutely refuses so to do. To the end therefore, &c.

Prayer.

And that the said Defendant may answer the premises. And that the said Defendant may be decreed to surrender the said copyhold premises, to the use of your Orator and Oratrix and their heirs, as tenants in common. And for further relief, &c.

J. L.

Pray Subpoena against E. W.

SECT. XIV.—BILLS FOR BOND CREDITORS, &c.

Bill by Bond and Simple Contract Creditors against an Executor.

Humbly complaining, shew unto your Lordship, your Orators T. C. of, &c. and P. M. of, &c. executors of the last will and testament of R. B. late of, &c. clerk, deceased, and as such bond and simple contract creditors of I. T. late of, &c. deceased, and also your Oratrix M. N. of, &c. another creditor of the said I. T. by simple contract, on behalf of themselves, and all other the creditors of the said I. T. who shall come in and seek relief by and contribute to the expense of this suit, that the said I. T. having borrowed of, or being indebted unto the said R. B. in the sum of £ , he, for securing the payment thereof with lawful interest for the same, duly executed a bond or obligation in writing, bearing date, &c. whereby he bound himself, his heirs, executors, and administrators, unto the said R. B. his executors, administrators, or assigns, of the said sum of £ , with interest for the same, at the rate of £ per cent. per annum, at a time therein mentioned, and long since past, as in and by, &c. .

That the said principal sum of £ and all the interest thereof, from the, &c. now remains justly due and owing by virtue of the said bond.

That the said I. T. on or about, &c. having occasion to borrow a certain sum of money, on that day wrote and sent a letter to the said R. B. by C. R. then the said I. T.'s clerk, the said I. T. being an attorney, in the words and figures following, (that is to say) &c. and in consequence of such letter, the said R. B. did, on the, &c. advance unto the said C. R. for the use of the said I. T. the further sum of £ , for which the said C. R. signed and gave a receipt to the said R. B. in the words and figures following, that is to say; as in and by the said letter and receipt, &c.

That the said sum of £ , and all interest thereon, now remain justly due and owing by virtue of the said letter and receipt.

That the said I. T. having, on or about, &c. occasion to borrow a certain sum of money, he on that day wrote and sent by the said R. C. his clerk, to Oratrix, in the words and figures following, that is to say, &c. in consequence of which, Oratrix did, on, &c. advance unto the said R. C. for the use of the said I. T. the sum of £ , for which the said R. C. then gave Oratrix the following receipt, that is to say, &c. as in and by the said letter and receipt, &c.

That the said I. T. departed this life, on or about, &c. intestate, being indebted to the said R. B. and Oratrix in such sums as aforesaid, and to some other persons, and he left M. T. the widow, and M. T. the younger, his only child and heir at law, and soon after his death, letters of his personal

sonal estate and effects were granted to the said M. T. the widow, by the proper Court.

That the said I. T. was, at the time of his death, possessed of, or entitled to a considerable personal estate, and seized or entitled in fee-simple, of, or to divers freehold messuages, lands, tenements, and hereditaments, situate, &c. of large yearly value in the whole; and she the said M. T. the widow, possessed all the said personal estate and effects, or so much thereof, as she was able. And she the said M. T. the younger, or one of them, entered on the said real estate, and ever since have or hath been, and now are or is in possession of the receipt of the rents and profits thereof.

That the said R. B. departed this life, on or about, &c. having before his death duly made and published his last will and testament in writing, bearing date, &c. and thereby gave all the residue of his personal estate, unto Plaintiffs, equally to be divided between them, and appointed them executors thereof.

That shortly after his death, they proved the same in the Consistory Court of the bishop of N. and thereby became, and now are entitled to the sums of money due to the said R. B. as aforesaid. And Plaintiffs have at several times applied to the said M. T. the widow, and M. T. the younger, to pay the said several sums of money due to Plaintiffs respectively as aforesaid. And Plaintiffs well hoped, &c. But now, &c.

Pretend, that the said I. T. did not execute such bond as aforesaid, and that neither he, nor the said C. R. signed such writings as aforesaid, or either of them, and that no such sums as aforesaid were really advanced or lent to, or received by him the said I. T. or that, he in his life-time fully paid and satisfied all such sums, and all the interest thereof, and that therefore no money was remaining due from him, in respect thereof, at the time of his death.

Charge contrary, and so the said Defendants will at other times admit, but then the said M. T. the widow, pretends, that the personal estate and effects which the said I. T. was possessed of, entitled to, or interested in, at the time of his death, were but of inconsiderable value in the whole, and that only some small part thereof was possessed by her the said M. T. the widow, or by her order, or for her use, and not near sufficient to satisfy Plaintiff's said demands.

Charge contrary, and particularly, that he was at the time of his death possessed of divers messuages, &c. for some long term of years, at small rents, and that the said M. T. the widow is now in the possession and receipt of the rents and profits of all such messuages, &c. unless she has sold the same, in which case a large sum of money has been received by her, or by her order, or for her use, as a consideration for the sale thereof, and he was also entitled to considerable sums of money due on bonds, mortgages, and other securities; but, in order to conceal the real value of such personal estate, the said M. T. the widow, hath not exhibited into the proper Ecclesiastical Court, or caused to be made, any appraisement or inventory thereof, or if any such were exhibited or made, the same was defective, and many particulars of the personal estate which he was really possessed of at the time of his death, were wholly omitted therein, and most of the particulars which are contained in such appraisement or inventory, are therein appraised at sums much less than the same respec-

tively were really worth, or than they were, or might have been afterwards sold for. And Plaintiffs are advised that the personal estate of the said I. T. ought to be first applied to pay the whole of the debts owing by him at the time of his death, on specialty, in preference to all his debts on simple contract, and that if such personal estate be not sufficient to pay the whole of his debts, then Plaintiffs and his other specialty creditors are by law entitled to be paid the remainder thereof out of his freehold estate, and Oratrix and his other creditors on simple contract are entitled in equity to a satisfaction of their respective debts out of his freehold estate, so far as his personal estate may be exhausted by his specialty creditors to the prejudice of his creditors on simple contract, and such real estate ought to be sold, and the rents and profits thereof received since his death ought to be accounted for. But then the said M. T. the widow, and M. T. the younger,

Pretend, that most of the messuages, &c. whereof the said I. T. was in possession at the time of his death, are copyhold, and that such parts thereof as are freehold were settled for the benefit of them, or one of them, and that therefore no part thereof is subject to the payment of his debts, either in law or in equity.

Charge contrary, and that the said Defendants refuse to discover the particulars and nature of such messuages, &c. or the particulars of any settlement or settlements. And at some times the said M. T. the widow claims to be entitled to dower out of all, or some part of such freehold estates. Plaintiffs insist that she is not entitled to dower out of any part thereof, the said I. T. having only an equitable estate therein, or some other estate whereof she is not dowable.

Claim some other right or interest to or in the said freehold messuages, &c. or part thereof, but they refuse to discover the particulars thereof, or how, or in what manner they derive or make out the same.

Pretend, that there are or is some other mortgages, &c.; and under such or the like pretences, or others equally unjust and unreasonable, they the said M. T. the widow, and the said M. T. the younger, refuse to pay the monies due to Plaintiffs respectively as aforesaid, or any part thereof, or to sell the said freehold messuages, &c. or any part thereof, for such purpose. And they having got into their possession, custody, or power, the deeds and writings relating thereto, they refuse to produce the same. All which, &c. To the end, &c.

Prayer.

That an account may be taken of the money due to Plaintiffs respectively for principal and interest as aforesaid, and of the other debts owing by the said I. T. at the time of his death; and also an account of the personal estate and effects of the said I. T. possessed or received by, or by the order, or for the use of her the said M. T. the widow; and that such personal estate may be applied in payment of his debts in a course of administration, and that the remainder of such debts may be paid out of his real estate, and the rents and profits thereof become due since his death, and possessed or received by, or by the order, or for the use of them the said M. T. the widow, and M. T. the younger, or either of them,
and

and that for that purpose such real estates, or a competent part thereof, may be sold, and that all proper parties may join in such sale, and that an account may be taken of all such rents and profits; and in order to such sale, that all the title-deeds and writings relating to such real estates may be produced. And for further relief, &c.

R. P.

Bill by a Bond Creditor against Trustees, under an Assignment of joint and separate Debts, for an Account of separate Estate of Obligor, and to be paid, pari passu, with the other Creditors, and also an Account of the joint Trust Property.

States, that the Defendants J. S. &c. who had for some time carried on the trade or business of bankers in copartnership together, in New Bond-street aforesaid, under the stile or firm of Messrs. S. and Co. did, in or about the month of , become embarrassed in their circumstances, and stopped payment.

That by a certain indenture of bargain and sale and assignment, of three parts, bearing date, &c. and duly made and executed by and between (the Defendants, the bankers, assigned over their estates and property to Defendants T. &c. the trustees, for the benefit of creditors, and upon the trusts therein mentioned.)

That by a certain other indenture, bearing date on or about the , and duly made and executed by and between, &c. (a further assignment,) as in and by, &c.

That Plaintiff was a party to, and signed the said trust deed as a joint creditor of the said Defendants J. S. &c. for the sum of £ and upwards, which was then justly due and owing to Plaintiff from them on the balance of his banking account.

That he was at the same time a joint and separate creditor of the said Defendants J. S. &c. upon the joint and several bonds of the said J. S., &c. together with one G. T. S., who was, at the time of executing of such bond, carrying on trade and commerce in copartnership with the said Defendants J. S. &c. conditioned for re-transferring to Plaintiff at the time therein mentioned, and long since past, the sum of £ of certain stock therein mentioned, which Plaintiff had lent to the said banking-house, for payment in the mean time to Plaintiff of the dividends that would have accrued due to Plaintiff on the said stock, if the same had not been transferred by him.

That the said Defendants I. T. &c. took upon themselves the execution of the said trusts, and by virtue thereof possessed themselves of all the said trust property, and have by sale thereof, and by collecting in the debts due to the said banking-house and otherwise, received monies to a very large amount.

That the said trustees never, until the month of . last, made any dividends of the said trust effects, and then divided only in the pound to the joint creditors of the said banking-house.

That they had long before in their hands a much larger sum of the joint property than was necessary to have made a much more consider-

able dividend, and they have also long had, and now have in their hands, very large sums of money arising from the separate estates and effects of the said Defendants J. S. &c. and particularly of the said Defendant J. S., but all such monies being deposited in the banking-house of, &c. of which the said Defendant I. T. is a partner, and the said I. T. being the trustee who has chiefly acted in the said trust, monies have been permitted to remain in the said banking-house of the said Messrs. &c. with a view to the private advantage of the said banking-house.

That the trust funds in the hands of the said trustees would have been greatly increased, but that the said trustees, under pretence of some custom or usage amongst bankers as to short bills, paid over to certain country bankers, or permitted them to receive the same, several sums of money, amounting in the whole to £ and upwards.

That such payments were made with the view to give a preference to such country bankers, or some of them, with whom the said trustees, or some or one of them, were or was in some manner connected.

That there are various parts of the said trust effects, to the amount of £ and upwards, which have not been received, and by reason of the negligence of the said trustees, have become in a doubtful state.

That it was not required or expected that the creditors of the said Defendants J. S. &c. who had security for their debts, should become parties to the said trust indentures, and Plaintiff therefore having, in respect of the said joint and several bond of the said J. S. &c. a collateral security by the assignment of certain mortgages on the property of P. B. esq. at, &c. and by a lien on an assignment of certain legacies payable at the death of a Mr. A., and known in the transactions of the said house of S. and Co. by the term of the Berkshire legacies; Plaintiff had been party to the said trust indentures only in respect of the sum of £ and upwards, due to him on the balance of his banking account, and not in respect of the said joint and several bond of the said house.

That learning that the said Defendants I. T. &c. had in their hands very large sums of money arising from the separate estate of the said Defendant J. S. unapplied by them to the purpose of their trust, Plaintiff, as a separate creditor of the said Defendant J. S. by virtue of the said joint and separate bond, caused the same to be attached in the hands of the said trustees, by a proceeding in the lord mayor's court of London, in or about the month of .

That Plaintiff afterwards withdrew the said attachment, in consequence of two agreements in writing, one of which was signed by the said Defendants I. T. &c. and the other of which was signed by W. L. as the solicitor of your Orator, and such agreements were in the words and figures, or to the purport and effect following, that is to say (*state them*), as in and by, &c.

That although the said trustees did in the month of in the said agreement mentioned, declare the said trust to be perfected, and did then make such dividend of in the pound, on the joint estate as hereinbefore stated, yet the said trustees have rendered no account to Plaintiff of the separate estate of the said Defendant J. S., nor have made to him any payment in respect of his said bond, although they have, and then had in their hands, much more than sufficient to pay
Plaintiff

Plaintiff in full in respect of his said bond, and to pay in full all other, if any, the separate creditors of the said Defendant J. S.

That he hath by himself and his agents, since the said day of , repeatedly applied to, and requested the said Defendants I. T. &c. to come to a just and fair account with Plaintiff, in respect of the separate estate of the said Defendant J. S. and to pay to Plaintiff what is due to him on the said bond *pari passu*, with the other separate creditors of the said Defendant J. S., and Plaintiff hath in like manner applied to the said Defendants to come to a just and fair account with Plaintiff and the other creditors who were parties to the said trust, for all other the sums of money received by them, or either of them, under and by virtue of the said trusts. And Plaintiff well hoped, &c. *Pre-tence* insufficiency.

Charges contrary, &c. and so it would appear if the said Defendants the trustees would set forth, as they ought to do, a full, true, and particular account of all and every the said trust estates and effects possessed or received by them, or any, or either of them, or which, but for their wilful default, they might have possessed or received, and of their application thereof.

Charges, that the said Defendant J. A., party to the said trust indentures, had, before the making thereof, been found and declared a bankrupt, and an assignment of his estate and effects had been made to the said Defendants E. H. and I. S. together with H. E. of, &c. but at the time of executing the said trust indentures, it was expected that the said commission would be superseded, and it was thereby provided, that if the said commission was not superseded within a certain time therein mentioned, and long since past, that the said indentures should be considered as void against the said Defendant J. A. but should nevertheless be in full force with respect to all other the parties thereto, or to such effect.

Charges, that the said H. E. was soon afterwards removed from being such assignee, and the said Defendant I. T. hath been duly chosen assignee in his stead, and a proper assignment of the estate and effects of the said Defendant J. A. hath been executed unto the said I. T., together with the said Defendants E. H. and J. S.

Charges, that the said Defendants E. H., J. S., and I. T., as such assignees or otherwise, claim to be interested in the execution of the trusts of the said indentures.

Charges, that the said Defendant J. S. is now resident at M. in the East Indies, and the said Defendant G. P. at the island of M. or at some other places beyond the seas, out of the jurisdiction of this Court. All which, &c. (*Interrogate, &c.*)

Prayer.

And that the said Defendants may set forth a full, true, and particular account of all and every the said trust estate and effects, and all the particulars whereof the same consisted, and the quantities, qualities, full, real, and true values of all and every such particulars which have been possessed or received by, or come to the hands

hands of the Defendants the trustees, or of any other person or persons by their, or any of their order, or for their, or any of their use; and how and in what manner, and when, and where, and by, and to whom, and for how much the same and every part thereof have been sold and disposed of, and what parts thereof, and to what value and amount, now remain undisposed of, and what are become thereof. And that the said Defendants may answer the premises. And that an account may be taken of the separate estate and effects of the said Defendant J. S. which have been possessed and received by the said Defendants the trustees, and also an account of the separate debts of the said Defendant J. S. and that Plaintiff in respect of his aforesaid bond may be paid from the separate estate of the said Defendant J. S. *pari passu*, with his other separate creditors. And that the said deed of trust may also in all other respects be established and carried into execution, by and under the direction of this Court, and that an account may be taken of all and every other the trust estate and effects which have come to the hands of the said Defendants the trustees, or of any or either of them, or of any other person or persons by their, or any or either of their order, or for their, or any or either of their use, or which, without their wilful neglect or default, might have been received by them. And that an account may also be taken of the payments and disbursements of the said Defendants the trustees, for and in respect of the matters aforesaid; and that some proper person may be appointed to receive and get in the outstanding joint and separate estate and effects of the parties aforesaid. And for further relief.

*Bill by a Bond Creditor against Executor of Obligor,
for satisfaction out of real and personal Estate, and
against Co-obligor, to supply the Deficiency.*

Humbly complaining, shew unto your Lordship, your Orators A. S. and R. P., both of, &c. bankers and copartners, that T. T. late of, &c. deceased, and F. J. of the same place, hosier, the said T. T. and F. J. being in the said T. T.'s life-time copartners in trade, in or about the, &c. having occasion for the sum of £ , applied to and requested your Orators to lend them the same, and your Orators lent and advanced them such sum of £ , and for securing the repayment thereof with interest, the said T. T. and F. J. executed a bond to your Orators, bearing date, &c. whereby they bound themselves, &c. (*state bond in the usual way,*) as in and by, &c. And your, &c. that the said T. T. and F. J. or either of them, did not pay unto your Orators the said principal sum of £ , or any part thereof at the time mentioned in the condition of the said bond, or afterwards, and the said principal sum and an arrear of interest for the same remained due to your Orators on the said bond from the said T. T. and F. J. at the time of the death of the said T. T. and still remains due to your Orators. And your, &c. that the said T. T. was in
his

his life-time, and at the time of his death, seized in fee-simple of, or well entitled to, some freehold messuage, lands and tenements, subject, as it is alleged, to some mortgage or mortgages of part thereof, and seized to him and his heirs of, and well entitled to, certain copyhold messuages, cottages, and tenements, according to the custom of the manor of which the same were holden, and which had been surrendered by him to the uses of his will; and possessed of, and well entitled to, or interested in a very considerable personal estate, consisting of, &c. and of divers other effects, to a considerable amount or value in the whole; and being so seized of or entitled to such freehold and copyhold estates, and being of sound and disposing mind, memory, and understanding, the said T. T. in or about, &c. duly made and published his last will and testament, in writing, and which was signed and published by him, and attested in such manner as by law is required for devising freehold estates of inheritance; and he thereby first ordered and directed that all his just debts should be fully paid and satisfied, and subject thereto he gave and devised, &c. (*state will*) as in and by, &c. And your, &c. that the said Testator departed this life in or about , without having revoked or altered his said will, without issue, leaving the said S. T. his wife, and the said M. T. his sister and heir at law, and also his heir by the custom of the manor of which his said copyhold estates were holden; and the said S. T. upon or soon after his death, duly proved the said will in the Exchequer Court of York, being the proper Ecclesiastical Court, and took upon himself the execution thereof; and she, or some person on her behalf, or with her permission, by virtue of the said will or the probate thereof, upon or soon after the said Testator's death, entered upon, and took possession of, all his freehold estates by his said will devised to her for her life, and of which she hath ever since been, and now is, in possession, and in the receipt of the rents and profits thereof, and possessed himself or herself of all the personal estate and effects of the said Testator to a very considerable amount; and she thereout, or out of the produce thereof, paid the said Testator's funeral expenses, and all, or most of his debts, your Orators said debt excepted; and the said M. T. and the said Testator's mother, upon or soon after his death, entered upon and took possession of the said copyhold messuage or tenement devised to her for her life as aforesaid. And your, &c. that the said principal sum of £ remaining due and owing to your Orators, with an arrear of interest, and your Orators having frequently since the said Testator's death, by themselves and their agents, applied to the said S. T. as his personal representative, and requested her to pay the said bond-debt and interest. And your Orators well hoped that she would have paid the same accordingly, and that in case of any deficiency of the said Testator's personal estate, the same would have been answered and made good out of the said freehold and copyhold estates, as in justice and equity ought to have been the case. But now so it is, &c. absolutely refuses so to do. And pretends that the said Testator at the time of his death was indebted to several persons besides your Orators, on bonds, and specialties, and otherwise, in several considerable sums of money, and that the said Testator's personal estate and effects which have been paid by her order, or for her use, were inconsiderable and insufficient to answer and satisfy such other debts by specialty, and the

said

said Testator's funeral expenses and testamentary charges, and other charges respecting the administration of his estate and effects, and some of his debts; and she also pretends, that there is not any part of the said Testator's personal estate and effects outstanding and undisposed of, or unpossessed of, or unadministered by her, except what may be coming from the said R. J. in respect of the said copartnership in which the said Testator was engaged with him, and that she hath used her best endeavours, and taken all due care and diligence to settle the accounts of the said copartnership with the said F. J. to obtain payment from him of what is coming therefrom to the said Testator's estate, but hath not been able as yet so to do. And she also pretends, that the said Testator was not, at the time of his death, seized of or entitled to, or interested in, any freehold lands, tenements, or hereditaments, or if he was, that she or any person on her behalf, or claiming under her, has not been, nor is in possession of the rents and profits thereof, or at least that she is entitled to the rents and profits thereof for her life. And your Orators having, in Easter term last, brought an action on the said bond against the said Defendant J. T. as executrix as aforesaid, in his Majesty's Court of K. B. at Westminster, the said Defendant hath put in a plea to the said action, and pleaded that, &c. and thereupon the said A. S. and D. S. who survived the said M. S., for the recovery of the said debt, in Easter term aforesaid, impleaded the said Defendant as executrix of the said T. T. for the sum of £ upon the said writing obligatory in the said Court of K. B., and stand judgment against her, and that the said judgment remained unsatisfied, and that the money secured by the said bond remains due and owing to the said A. S. and D. S. as surviving obligees, she not having possessed assets of the said Testator sufficient to satisfy the same, nor having paid the same or any part thereof.

Charge contrary, and charge that the said Testator, at the time of his death, was possessed of, or entitled to, a considerable personal estate and effects, and more than sufficient to satisfy his funeral expenses and debts, or at least his debts by specialty, and this the said Defendant, or some person by her order, or for her use, hath possessed or received, or without her wilful neglect or default might have possessed or received, the whole of such personal estate and effects, and that a considerable part of the said bond debt on which the said judgment hath been received has been satisfied, and that little, if any, remains due in respect thereof. But your Orators charge, the said Defendant S. T. hath wasted and misapplied part of the said Testator's personal estate, and has made divers payments thereout which ought not to have been made thereout, and hath permitted parts of the said Testator's personal estate to be possessed or received by other persons as a legacy, or in satisfaction of debts by simple contract, and so the same would appear if the said Defendant would set forth a full, just, and particular account of all the said Testator's personal chattels and effects possessed by her, or by any person or persons on her behalf, or for her use, or by her permission; and would set forth how she has sold and disposed of, and applied the same, and of the produce of the said Testator's personal estate and effects remaining outstanding and unpossessed of by her, but this she refuses to do; and in case the said Testator's personal estate shall not on a fair account to be taken thereof, be sufficient to answer your Orators' said

said debts, your Orators insist that the deficiency ought to be made good out of the said Testator's freehold and copyhold estates, and the same, or a sufficient part thereof, ought to be sold for that purpose; but this the said Defendant, S. T. and J. P. and M. his wife, W. T. T. R. and M. T. severally refuse to consent to, although they have not any title to the said freehold and copyhold estates, or any part thereof, except under the said Testator's will; and the said S. T. and M. T. refuse to account for the rents and profits of the said estates, received by them, or for their use, or to apply the same in or towards the payment of your Orators said debt. And W. T. J. R. M. T. J. P. and M. his wife, severally pretend that the said Testator's personal estate and effects are sufficient to answer and satisfy your Orators said debt, and all the other debts, and they therefore object to any sale being made of any of the said freehold and copyhold estates, for payment of your Orators debt. And the said several Defendants, or some of them, at times, set up divers claims to the said freehold and copyhold estates, in opposition to the said will. And they at times pretend and insist, that the said F. J. as a co-obligee on the said bond, or as the surviving partner of the said Testator, ought to pay your Orators the said bond debt; but the said F. J. pretends and insists that the said Testator, or his estate, has had the benefit of the said sum of £ , the consideration of the said bond, and that he has not any effects of the said Testator in his hands, coming to the said Testator's estate, and therefore that the bond ought to be paid by the said S. T. out of the said personal estate; or in case of a deficiency of such personal estate, out of the said freehold and copyhold estates. Whereas your Orators insist, that in case of any deficiency of such personal estate, to satisfy the said bond debt, the said F. J. ought to answer and pay the same, and make good the said deficiency, but he refuses or declines so to do. All which, &c. To the end, &c.

Prayer.

And that an account may be taken by and under the direction and decree of this honorable Court, of what is due for principal and interest on the said bond; and that an account may also be taken of the personal estate and effects of the said Testator, possessed by or come to the hands of the said S. T. or any person by her order, or for her use, or with her permission, or which, without her wilful default or neglect, might have been possessed by her; and that she may be decreed to pay your Orators what shall appear to be due and owing to them for principal and interest on their said bond, out of the said Testator's personal estate, in a due course of administration. And in case the same shall not be sufficient for that purpose, then that an account may be taken of the rents and profits of the said Testator's said freehold and copyhold estates, received by them the said Defendants, S. T. and M. T. respectively, or for their use; and that all such as shall appear to have been received by her, or a sufficient part thereof may be applied in or towards making good the said deficiency; and in case the said several funds shall be insufficient for the paying and answering your Orators' said debt and interest, a sufficient sum of money may be raised by sale or mortgage of the said Testator's said freehold and copyhold estates,

or

or a sufficient part thereof, subject to such mortgage or mortgages as are now subsisting thereon, for the making good such deficiency, and applied accordingly; and the said, &c. &c. and all proper parties may join in such sale or mortgage; and in case all the said Testator's estates shall be insufficient for payment of your Orators' said bond debt, then that the said Defendant F. J. as a co-obligee in the said bond, may be decreed to answer and make good such deficiency to your Orators. And for further relief, &c.

Bill by Bond Creditor, against Heirs at Law and Residuary Legatee, for Payment by Sale of Estate.

Humbly complaining, shew unto your Lordship, your Oratrix, A. L. of , spinster, that A. W. late of , was, at the time of his decease, justly indebted to your Oratrix in the sum of £ , on a bond or obligation given by the said A. W. to your Oratrix, bearing date on or about the , in the penalty of £ , conditioned for the payment of £ , on the day of , with interest, after the rate of £ per cent. and the same, together with the interest accrued thereon, is still due and owing to your Oratrix. And your Oratrix further sheweth, &c. that the said A. W. being thus indebted and possessed of a very considerable personal estate, and greatly more than sufficient to pay his just debts, and being also seized, possessed, or otherwise well entitled to a certain freehold, leasehold, or copyhold estates, situate in the county of S. and elsewhere, departed this life on or about the day of , having first duly made and published his last will and testament in writing, and executed in such manner as by law is required, to pass real estate, bearing date on or about the day of , and thereby gave and bequeathed (amongst other things), in the words and figures following; that is to say (*state that part which applies to this case*); and by his will appointed A. B. L. B. now L. B. W. residuary devisee, in fee, and a Defendant hereto, and R. T. executrix and executors of his said will, as in and by, &c. That the said A. W. departed this life without having altered or revoked his said will, so far as the same has been hereinbefore set forth, and leaving his said executrix and executors, and also his heirs at law, and Defendants hereto (*state who they are*). That the said A. B. and R. T. having renounced the execution of the said will, the said L. B. W. proved the said will in the prerogative court of the Archbishop of Canterbury, and took upon himself the executorship thereof, and under and by virtue thereof, possessed himself of the personal estate and effects of the said Testator to a large amount, and entered into possession of the real estates devised to him by the said will. And your Oratrix, &c. that she has frequently, by herself and her agents, applied to the said L. B. W. for payment of what was due to her for principal and interest on her said debt, and well hoped that the said L. B. W. would have complied with this the reasonable request of your Oratrix, as in equity and good conscience he ought to have done. But now so it is, &c. the said L. B. W. at some times pretends, that the said A. W. did not make such will and testament as is heretofore mentioned, and that administration, with the will annexed, was not, at or about the time

time hereinbefore mentioned, or at any other time, granted to him out of the prerogative court of Canterbury, or any other Ecclesiastical Court; or if the same were so granted to him, that nevertheless he hath not, by virtue thereof, received any part of the said A. W.'s personal estate, or at least not sufficient to pay your Oratrix's demand. Whereas your Oratrix charges the contrary of such pretence to be true; and more particularly, that the said L. B. W. has admitted, in a certain cause now depending in this honorable Court, wherein the said L. B. W. is a party, that he has received assets of the said A. W. sufficient to pay all his debts, legacies, and funeral expenses, and this the said L. B. W. will at other times admit; but then he pretends that he cannot sell any part of the real estate of the said A. W. without the concurrence of the said other Defendants, who refuse to concur therein without the sanction of this honorable Court. All which, &c. To the end, therefore.

Prayer.

And that the said Defendant, L. B. W. may admit assets, or set forth an account of the personal estate and effects of the said A. W. come to his hands or possession; and that an account of what is due to your Oratrix, for her said debt, and the interest accrued due thereon, may be taken. And if the said L. B. W. shall admit assets, then that the same, when so ascertained, may be paid to your Oratrix out of the personal estate and effects of the said Testator; and in case the said L. B. W. should not admit assets, then that an account may be taken of the personal estate and effects of the said Testator, come to the hands or power, or possession of the said L. B. W. And in case it should appear that the said personal estate and effects are not sufficient to pay your Oratrix's said debt and interest, then that the said term, devised to your Oratrix by the said will of the said Testator, may be sold by and under the decree of this honorable Court. And for further relief.

J. A.

*Pray Subpoena against the heirs,
and L. B. W.*

*Bill to have a Bond, and other Securities, delivered up,
Part of the Consideration being Money won at Play.*

That Plaintiff, C. some time in or about, &c. was in company with T. B. of, &c. the Defendant hereto, at the house of one Mr. D. in, &c. and dice being introduced, Plaintiff set down to play with dice with the Defendant, and thereupon the Defendant, at such meeting, won of Plaintiff, by playing at dice, the sum of _____, and Plaintiff being afterwards, and in or about, &c. indebted to the said Defendant in a sum of money for clothes, which the Defendant had made for Plaintiff and another person, at the instance and request of Plaintiff, and he, the Defendant, having satisfied and discharged the debt and costs incurred in an action at law, in which he had been bail jointly with Plaintiff, Defendant caused Plaintiff to be arrested, and held to bail, in an action at law for
recovery

recovery of the money due to him as aforesaid, for clothes; and Plaintiff being at that time unable to pay or to advance the same, Defendant proposed and offered to drop the said suit, and to discharge the said arrest in case Plaintiff would enter into and execute a bond or obligation to him, the Defendant conditioned for the payment, as well of the said sum of £ , won by him at dice as aforesaid; as also of his said other demands, amounting to the sum of £ in the whole, and accordingly Plaintiff was prevailed upon to execute, and did actually execute a bond or obligation, bearing date, &c. conditioned for the payment to the Defendant of the sum of £ , by instalments at the several days, and in manner therein mentioned.

That part of the consideration of the same bond or obligation was the said sum of £ , won by the said Defendant of Plaintiff, by playing at dice as aforesaid.

That on or about, &c. last, Defendant applied to Plaintiff, and proposed to deliver up the said bond for £ , upon Plaintiff's entering into, and executing, in lieu thereof, a new bond or obligation to the said Defendant, in the penalty of £ , with consideration of the payment of the said sum of £ , by instalments, at two equal payments; and also a warrant of attorney to confess judgment thereon, and upon Plaintiff's giving and subscribing two promissory notes for the payment of £ each, the one due at Christmas next, and the other at Christmas in the year ; and also another promissory note for the payment of £ for the interest thereof; and thereupon Plaintiff, at the intreaty of the Defendant, did execute to him a bond or obligation, bearing date, &c. in the penalty of £ , or some other considerable sum of money, with condition thereunder written, for the payment to Defendant of the sum of £ , with interest, at the end of two months from the date thereof, and of the further sum of £ , and interest, at the end of five months from the date of the same. And Plaintiff also, at the same time, executed a warrant of attorney to confess judgment in his Majesty's Court of K. B. at W. on the last mentioned bond. And Plaintiff also then gave and subscribed to the Defendant a promissory note for the payment of the further sum of £ , at Christmas next, and another promissory note for the payment of the further sum of £ at Christmas, in the year, and also a promissory note for the payment of £ on account of interest of the said sums, as by, &c.

That the last mentioned bond, warrant of attorney, and promissory notes, were entered into and executed by Plaintiff, in lieu of the first mentioned bond, for the payment of the sum of £ , and without any other consideration paid or given to Plaintiff by the Defendant, save the delivering up of the same bond for £ .

That soon after the first payment on the said bond for £ became due, he the said Defendant entered up judgment on the same bond, in pursuance of the said warrant of attorney, in the Court of K. B. and on or about, &c. Defendant sued out a writ of *capias ad satisfaciendum* on the said judgment, and Plaintiff was taken in execution thereon for the penalty of the said bond, being the sum of £ , and Plaintiff being in custody on the said execution, Defendant, on the day following, offered and agreed to release Plaintiff from the said execution, if Plaintiff would draw a bill of exchange on T. B. jun. esq. for the sum of £ , then due

due upon the said bond, payable in fourteen days, and procure him, the said T. B. to accept the same bill. And if Plaintiff and the said T. B. would also enter into and execute a warrant of attorney to confess judgment for the sum of £ , to which Plaintiff, in order to procure his discharge out of custody, consented, and, accordingly, Plaintiff drew a bill of exchange on the said T. B. requiring him to pay to the Defendant, or order, the sum of £ , after fourteen days from the date thereof, being the first payment that had been due on the said bond for the £ , and Plaintiff, together with the said T. B. at the same time entered into and executed a warrant, to confess judgment in his Majesty's Court of K. B. to the said Defendant, in the sum of £ ; and the Defendant, or J. D. his attorney, subscribed an acknowledgment that the same was given as a security for the payment of the said bill of exchange, and that judgment was not entered upon the said warrant of attorney until the said bill became complete, as by, &c.

That Plaintiff is advised that the securities given and entered into by Plaintiff as aforesaid, are all null and void, and ought to be delivered up to Plaintiff and cancelled, and vacated of the consideration for the same, being to secure the sum of £ , so won by Defendant at playing at dice as aforesaid. And Plaintiff hath frequently applied to the Defendant, and requested him to deliver up the several securities as aforesaid, so entered into Plaintiff as aforesaid. And Plaintiff well hoped, &c. But now, &c.

Insists upon the benefits of all the aforesaid securities, and threatens, in case the said bill of exchange is not paid on the day the same is made public, that he will enter up judgment on the said warrant of attorney, so executed by Plaintiff and the said T. B. and sue out execution thereon. And that he will also commence actions against Plaintiff on the several other securities given and entered into by Plaintiff as aforesaid, to recover the mortgage mentioned therein respectively; sometimes pretending that all the securities were given for a good and valuable consideration, *bond fide* paid by Defendant to Plaintiff, and that no part of the consideration thereof was for money won at dice, or any other play.

Charge contrary, which Defendant at times admits, but

Pretends, that although part of the consideration of the first mentioned bond was for the sum of £ guineas, won by him at dice as aforesaid, yet, as such bond was afterwards delivered up to Plaintiff, and such new securities entered into by him as aforesaid, in lieu of the former, the said bond for £ and warrant of attorney, to confess judgment thereon, and also the said promissory notes given by Plaintiff were to be considered as distinct and independent securities, and for a good and valuable consideration, and are not void within the meaning of the stat. 9 Ann. c. 14. and therefore that the Defendant hath a right to the benefit thereof, and to receive the money mentioned therein.

Charge, that the said bond for £ , and the warrant of attorney to confess judgment thereon, and the said promissory notes given as the fact is, by Plaintiff, in lieu of the first mentioned bond, and for no other different consideration, are equally null and void, and ought not to be put in force against Plaintiff, part of the consideration for the same, being the money won by Defendant of Plaintiff, at playing with dice as aforesaid. All which, &c. To the end, &c.

Prayer.

Prayer.

That the said bond so executed by Plaintiff to the said Defendant, for the payment of the said sum of £ , and the warrant of attorney aforesaid, to confess judgment thereon, and also the said promissory notes so given and entered into by Plaintiff to the Defendant, and all other the securities entered into and executed by Plaintiff to the said Defendant, in manner and for the consideration aforesaid, may be declared null and void, and that the same may be delivered up to Plaintiff, to be cancelled; and that in the mean time the said Defendant may be restrained by the order and injunction of this honorable Court, from commencing or prosecuting any action or actions at law against Plaintiff, upon the said securities, or any of them, or from entering up judgment on the said warrant of attorney, executed by Plaintiff and the said T. B. or from any proceedings thereon. And for further relief.

J. R.

SECT. XV.—BILLS FOR INFANTS.

Bill by an Infant Tenant against Trustees, for a Conveyance and Surrender of Freehold and Copyhold Estates, an Appointment of a Receiver and Guardian, and Maintenance out of Profits. Copyhold Premises in Mortgage, and youngest Son claims according to the Custom of the Manor.

States, that S. T. late of, &c. deceased, who was Plaintiff's late grandfather, was, for some time before, and on _____, seized to him and his heirs for ever, according to the custom of the manor of E. in the county of M. of, or to seven copyhold or customary messuages or tenements, situate in E. aforesaid, and the gardens and other appurtenances thereof, and lying within, and held of the said manor, and being so seized, he, on or about _____, out of Court, duly surrendered all the said seven messuages or tenements and the appurtenances thereof therein mentioned, to be then in the possession of, &c. into the hands of the lord of the said manor, to the use of R. M. of, &c. his heirs and assigns for ever, subject to a proviso or condition, for making the same void on payment by the said S. T. his heirs, executors, administrators or assigns, of the sum of £ _____ with interest for the same, at the rate of £ _____ per cent. per annum, on, &c.

That default was made in payment of the said sum of £ _____, and interest, according to the said condition. And therefore the said surrender in law became absolute, but the said S. T. continued entitled to the equity of redemption of and in the said copyhold premises, until and at the time of his death.

That S. T. being so entitled, and having, before the making of such conditional surrender, duly surrendered all the said copyhold messuages, and premises to the use of his will, and being also in his life-time, and at the time of his death, seized or entitled in fee-simple of, or to some freehold estate, situate, &c. and also possessed of, or entitled to a personal estate, consisting of various particulars to a considerable amount and value in the whole, he made and published his last will and testament in writing, whereby, &c. (gave all his real estate to trustees, the said R. M. and T. T. in trust out of his personal estate, to pay debts, &c. to pay off out of said personal estate, the said £ _____ and interest thereof, due on aforesaid mortgage. Charges freehold estate with several annuities in trust, to permit and suffer his daughter to receive the whole of the rents, &c. of his said estate during her natural life, after her decease, in trust for the heirs of the body of M. O. his daughter, lawfully begotten, with remainders over, appoints trustees executors, &c.) as in and by, &c.

That

That S. T. did, soon after the making his will, without revoking or altering the same, leaving the said M. O. his only child and heir at law, and soon after his death, executors proved, and they, or one of them possessed all the personal estate and effects belonging to the said S. T. at the time of his death, or so much thereof, as they or he were or was able, to a great amount in the whole, and more than sufficient to pay debts, legacies, and funeral expenses, and said mortgage deeds of £ and interest. And R. M. by and out of such personal estate, repaid the said sum of £ and interest, in discharge of said mortgage, but he never made any surrender of the said copyhold premises, or any part thereof, (he never having been admitted thereto,) nor did he ever acknowledge satisfaction on the said surrender. But he being since dead, and by his will appointed his wife, who is since dead, and T. T. of, &c. executors thereof, T. T. as the survivor of such executors, hath acknowledged such satisfaction on the said surrender.

That M. T. wife of S. T. is dead, whereby her aforesaid annuity of £ is determined. And by death of R. B. her monthly payment is determined.

That Plaintiff is advised, that on death of S. T. the whole inheritance of his said freehold and copyhold estates became by his said will, legally vested in said Trustees, and that the interest given by the said will, to the said M. O. for her life, and afterwards to the heirs of her body, were trusts in equity, to be executed by said Trustees. And that therefore it was incumbent on said Trustees, in execution of the trusts reposed in them by said will of S. T. to convey and surrender said freehold and copyhold estates, subject to the aforesaid annual and monthly payments to the use of said M. O. the daughter of said S. T. and mother of Plaintiff, for her life, and after her death, to her first and other sons, severally and successively in tail, with remainder to her daughters in tail, with remainder, &c. But no such conveyance or surrender hath ever been made, nor have or hath the said Trustees or either of them ever been admitted to the said copyhold estate. But soon after the death of said S. T. said M. O. his daughter, was admitted to said copyhold estate for her life, and she and T. C. her second husband, or some person or persons claiming under her, was or were in possession or receipt of the rents and profits of said estates, both freehold and copyhold, until the time of the death of said M. O. afterwards, and which happened, &c. And particularly Defendant S. was for some time before the death of Plaintiff's said mother, in possession of said estates, under the authority, or by the consent of said M. Plaintiff's said mother, and said T. C. her second husband. And the annuities and monthly payments were satisfied to that time. And Plaintiff is advised, that on the death of his said mother, Plaintiff, as her eldest son, became entitled to all said freehold and copyhold estates, devised by said will, as tenant in tail, subject to the said annuity of £ unto said M. S. for her life, and also to said monthly payment of unto said R. B. during her life. And that as Plaintiff is an infant, some proper person ought to be appointed by this honorable Court, to receive the rents and profits thereof, in order to pay said annuity and as to the surplus thereof, for the benefit of Plaintiff. And that said T. T. ought to convey and surrender the legal estate in the said estates, to the use of Plaintiff and the heirs of his body, with remainder
to

to his brothers and sisters O. T. C. and M. C. who, with Plaintiff, are all the children of the said M. O. afterwards C. successively in like manner, with remainder, &c.

That S. having got into her custody or power, the title deeds, copies of court rolls, and other writings belonging to said premises, she ought to bring the same into this honorable Court, for the benefit of Plaintiff, but she refuses so to do. And she hath received some money in respect of rent of the said estate, or part thereof, became due since death of Plaintiff's said late mother, therefore ought to account for the same, and pay the same for the use of Plaintiff, but she refuses so to do. And said trustees refuse to make any such surrender and conveyance of said freehold and copyhold estates. And T. C. the elder, sometimes pretends, that said S. T. did not duly make and publish such will as aforesaid, and therefore he insists that all his said estates, both freehold and copyhold, did on his death descend to said M. O. as his only child and heir at law, or that if he did make such will, yet by virtue thereof, she was entitled to such estates as tenant in tail, and not only for her life. And therefore he insists, that in either case, as her husband, he is entitled to the said freehold estate, as tenant by curtesy, and that Plaintiff can only be entitled unto the same as her heir at law after her death.

And the said T. C. the son alledges, that by the custom of the said manor, the youngest son, and not the eldest son, is heir, and therefore he insists, that whether the said M. the mother of him and Plaintiff, was entitled to the said copyhold estate, to her and her heirs for ever, as she was heir of her said father, or she was entitled thereto, to her and the heirs of her body, under the aforesaid will of her said father; the same copyhold estate, after her death, descended unto him the said T. C. the son, as the youngest son of his said mother, and as her heir, according to the custom of the said manor, and that Plaintiff hath no right to said copyhold estate, or any part thereof.

Charges, that S. T. did duly make such will as aforesaid, and Plaintiff is advised, and hereby insists, that under and by virtue of such will, the said M. O. afterwards C. had not any greater interest than for her life, in the said estate, or any part thereof, either freehold or copyhold. And that on her death, Plaintiff became in equity entitled to the whole thereof as aforesaid, and that said T. C. the son, hath not any right or interest to, or in the same, or any part thereof.

And the said trustees pretend, that they cannot act in the trusts vested in them as aforesaid, with safety, without the directions of this honorable Court, for indemnifying them therein. All which, &c.

Inquiry.

[An inquiry of rental and particular of such freehold and copyhold estates, distinguishing the one from the other, &c. An inquiry of those who have received any money in respect of the rents or profits thereof, or any part thereof become due since the death of Plaintiff's said mother.] And a full, just, and true account of all and every such sums of money, and when, and from whom, and for what the same was respectively received. And that Defendants may set forth what right and interest they

and each of them, have or claim of, in, or to the said estate and premises, and every part thereof, and how they derive and make out the same.

Prayer.

And that the said freehold and copyhold estates may be conveyed and surrendered by the proper party or parties to the use of Plaintiff and the heirs of his body, with such remainder as aforesaid, subject to the aforesaid annuity, to the said M. S. And that some proper person may be appointed by the Court, to receive the rents and profits of such estates, which have become due since the death of the said M. O. afterwards C. Plaintiff's late mother, and the future rents and profits thereof, during Plaintiff's minority. And that such of said Defendants as have or hath received any money, in respect of the rents and profits of the said estate, or any part thereof become due since the death of Plaintiff's late mother, may account for the same, and pay the money which shall appear due on such account for the use of Plaintiff. And that a guardian may be appointed for Plaintiff, by this Court, and that a sufficient yearly sum of money may be allowed for Plaintiff's maintenance and education out of the rents and profits of said estates for the time past, from the death of Plaintiff's mother, and for the time to come, until he shall attain the age of 21 years. And that Defendant S. may deposit the title deeds, copies of court rolls, and goods relating to the said estates, in the hands of one of the masters of this honorable Court, for the benefit of Plaintiff. And for further relief, &c.

W. A.

Bill to have a Sum of Money which was a specific Legacy, and appropriated, invested in the Accountant General, for the Benefit of Infants, Guardian, Allowance, &c.

Humbly complaining, shew unto your Lordship, your Orators and Oratrix E. H. I. H. T. H. and M. A. H. infants, under the age of 21 years, by I. E. of, &c. their next friend, that E. H. the elder, late of, &c. farmer, but now deceased, duly made and published his last will and testament in writing, bearing date, &c. and thereby amongst other things, directed, that W. T. of, &c. and E. B. the Defendants hereinafter named, and C. G. of, &c. who were the Trustees and executors in his said will named, should, out of the monies which should come to their hands in manner therein mentioned, lay out and invest in, or upon government or real securities at interest, the sum of £ upon trust, &c. (to pay a moiety of the dividends to E. H. then the widow of the testator's son T. for life, or during widowhood, and after her decease or marriage, the whole of the dividends were to be applied by the Trustees for the maintenance and education of testator's grandchildren, the Plaintiffs to whom the principal was to be transferred at 21 years or marriage, as to the

the daughter,) as in and by, &c. And your, &c. that the said Testator departed this life in or about the month, &c. without having in any manner revoked or altered the said will, except by a codicil, bearing date, &c. which did not relate to, or affect the said trusts of the said sum of £ . And your, &c. that W. T. and E. B. and the said C. G. duly proved the said will of the said testator, and acted in the trusts thereof, and out of the monies which came to their hands from the estate and effects of the said testator, in or about, &c. appropriated the sum of £ , in satisfaction of the aforesaid legacy, in the purchase of the sum of £ , 3 per cent. consolidated annuities, and the said sum of stock is now standing in their names in the books of the Governor and Company of the Bank of England. And your, &c. that the said C. G. hath departed this life, and that the said E. H. on or about, &c. intermarried with, and is now the wife of the said L. E. whereupon the interest of the said E. H. in the said sum of £ , 3 per cent. &c. wholly ceased. And that your Orators and Oratrix shew, that the said Defendants paid to the said J. E. and E. his wife, the years dividends which became due on the said sum of stock, on the day of as well for the interest of the said E. E. in the said stock, as for the maintenance and education of your Orators and Oratrix up to that time. But the said Defendants have retained in their hands the subsequent dividends which have accrued due on the said stock, and have made no payments or allowances thereout, for the maintenance or education of your Orators and Oratrix. And your, &c. that some proper person or persons ought to be appointed, as the guardian or guardians of your Orators and Oratrix, with suitable allowances for their maintenance and education, for the time past, since the said day of , and for the time to come, and that the said sum of stock ought to be secured in this honorable Court. To the end, &c.

Prayer.

And that the said Defendants may answer the premises; and that some proper person or persons may be appointed the guardian or guardians of your Orators and Oratrix, with suitable allowances for their maintenance and education for the time past, since the said day of , and for the time to come, and that the said Defendants may account for the dividends of the said trust stock, which have accrued due since the said day of , and may thereout pay the allowances which shall be made for the maintenance and education of your Orators and Oratrix, since the said day of , and may pay the residue thereof into this honorable Court, for the benefit of your Orators and Oratrix; and may also transfer the said sum of £ 3 per cent. consolidated bank annuities, into the name of the Accountant General of this honorable Court, to be there secured for the benefit of your Orators and Oratrix, and such other persons as may eventually be interested therein. And for further relief.

Bill by Infant and next Friend, to carry the Trusts of her Father's Will into Execution, and for a Receiver. Infant was also Tenant in Tail of Lands under the Will of her Grandfather.

Humbly complaining, sheweth unto your Lordship, your Oratrix A. W. an infant, under the age of 21 years, that is to say, of the age of nine years or thereabouts, by T. W. of, &c. her uncle, and next friend, that A. W. late of, &c. but now deceased, the father of your Oratrix, was, at the time of making his said will, and at his death, seized in fee-simple of, or otherwise well entitled to part or share of and in a certain colliery or coal mine, in the, &c. called colliery, and also to part or share of and in a certain colliery or coal mine, in the county of D. called colliery, and was also possessed of one undivided moiety of a certain brewery malting and lands, situate at, &c. held by lease from the dean and chapter of D. for a term of years, and was also possessed of farming stock, and other personal property to a great amount. And your, &c. that on or about, &c. the said A. W. duly made and published his last will and testament in writing, which was executed and attested in such manner, as by law is required for passing real estates, and was in the words and figures, or to the purport and effect following, (that is to say,) This is the last will, &c. &c. (gave to his wife J. W. his liquors and furniture for life, she signing an inventory. Gave all his collieries and all other his estate to Defendant R. S. in trust for his children, if more than one, equally, and if but one, to such one, chargeable with annuities of £ to his wife; £ to his sister M. B. and £ to J. W. son of G. W. and appointed said R. S. sole executor and guardian of Plaintiff, in case of his wife's death or second marriage,) as in and by, &c. And your, &c. that the said A. W. departed this life on or about, &c. without having in any manner revoked or altered his said will leaving J. W. in the said will named, his widow, and your Oratrix, his only child, him surviving, and thereupon R. S. of, &c. one of the Defendants hereto, and the sole executor in his said will named, duly proved his said will in the proper Ecclesiastical Court, and took upon himself the executorship thereof. And your, &c. that the said J. W. the widow of the said testator, and the mother of your Oratrix, departed this life intestate, on or about, &c. leaving your Oratrix her only child and sole next of kin. And letters of administration of her goods, chattels, rights, and credits, have since been duly granted to the said R. S. who hath thereby become her legal personal representative. And your, &c. that by indentures of lease and release, bearing date, &c. and made or expressed to be made between R. W. the late grandfather of your Oratrix, of the first part, the said T. W. and J. H. of, &c. another Defendant hereto, of the second part, the said Testator A. W. of the third part, the said J. W. the wife of the said A. W. of the fourth part, G. W. of, &c. and W. G. of, &c. two other Defendants hereto, of the fifth part, the said Defendant R. S. of the sixth part, and T. B. of, &c. of the seventh part; of one undivided moiety or full half part and share of, in, and to a certain messuage, tenement, and lands, &c. (*describing the premises as expressed in the deed,*) were conveyed and confirmed to the said G. W. and

W. G.

W. G. their heirs and assigns, in such manner, that the said A. W. and J. his wife, during their joint lives, were each entitled to one moiety of the rents and profits of the said premises, and that the said J. W. became entitled to the entirety of such rents and profits, upon the death of the said A. W. for and during the term of her life. And that your Oratrix is now, by the events that have happened, tenant in tail in possession of the said premises; but the said G. W. and W. G. now have, or claim some legal estate therein, in trust, however, for your Oratrix. And your, &c. that the said R. W. the father of the said A. W. by his last will and testament, gave, devised, and appointed all his copyhold messuages, lands, tenements and hereditaments, &c. unto the said R. S. and J. H. their heirs and assigns for ever, in such manner, that the said A. W. was entitled to, and enjoyed the rents and profits of the said premises, for and during the term of his life, and that your Oratrix, in the events that have happened, has become tenant in tail in possession thereof. And the said testator R. W. also gave and devised all his leasehold messuages, lands and premises, &c. (to go with the freehold, as far as the rules of law would admit). And your Oratrix sheweth, that the said R. S. and J. H. now have, or claim some legal estate or interest of, in, and to the said copyhold, freehold, and leasehold premises, in trust, however, for your Oratrix. And your, &c. that the said R. S. hath possessed the personal estate and effects of the said testator A. W. to an amount greatly more than sufficient to pay and satisfy his funeral expenses, debts, and legacies. And the said R. S. since the death of the said testator, hath received very considerable sums of money from the profits and produce of the said testator's share and interest in the and collieries, and in the brewery making, and lands at H. S. And the said R. S. upon the death of the said testator, entered into the possession, or into the receipts of the rents and profits of the premises, comprized in the aforesaid indentures of the, &c. and of the copyhold, freehold, and leasehold premises devised as aforesaid, by the said R. W.; and the said R. S. hath ever since continued and now continues in such possession or receipt. And your Oratrix sheweth, that the said R. S. hath, since the death of the said J. W. your Oratrix's mother, possessed himself of the wine and other liquors which were in the house of the said testator A. W. at the time of his decease, and of all other, the property and effects specifically bequeathed to the said J. W. And the said R. S. never paid over to the said J. W. the proportion of the annuity which became due to her, under the will of her said late husband, nor the rents which were due to her in respect of the premises comprized in the said indentures of the, &c. And your Oratrix sheweth, that the trusts of the said will of the said testator A. W. ought to be performed and carried into execution. And that the said R. S. ought to account for the personal estate and effects of the said testator, and for the rents and profits of his real estate, and also for the personal estate and effects of the said J. W. And that some proper person ought to be appointed to receive the rents, profits, and produce of the said freehold, copyhold, and leasehold estates, and of the said testatrix's share and interest in the said collieries or coal mines, and that a suitable allowance ought to be made for the maintenance and education of your Oratrix, for the time past, and to come. To the end therefore, &c.

Prayer

Prayer.

And that the said Defendants may answer the premises. And that the will of the said testator A. W. may be established, and the trusts thereof performed and carried into execution by and under the direction of this honorable Court. And that an account may be taken of the personal estate and effects of the said testator, which have been possessed or received by the said R. S. or by any other person or persons, by his order, or to his use. And that an account may also be taken of the said testator's funeral expenses, debts, and legacies, and that the said testator's personal estate may be applied in payment thereof, in a due course of administration. And that an account may be taken of the rents, profits, and produce of the said testator's freehold, copyhold, and leasehold estates, and of his share and interest in the said collieries which have accrued due since the death of the said testator, and have been possessed or received by, or by the order, or to the use of the said R. S. And that an account may also be taken of the estate and effects of the said J. W. which have come to the hands, or use of the said R. S. and of her funeral expenses and debts. And that the surplus of the personal estate of the said testator, and the rents, profits, and produce of his freehold, copyhold, and leasehold estates and coal mines, received by the said R. S. and the residuary estate, if any, of the said J. W. may be secured in this honorable Court for the benefit of your Oratrix. And that some proper person may be appointed by this honorable Court to receive the rents, profits, and produce of the said freehold, copyhold, and leasehold estates, and collieries. And that suitable allowance may be made for the maintenance and education of your Oratrix for the time past, and to come. And for further relief, &c.

J. L.

Pray Subpoena against
R. S. J. H. G. W.
and W. G.

Bill for the Transfer of Stock, standing in the Name of the Accountant-General, which had belonged to a Lunatic deceased.

States, that by indenture, bearing date _____ and made between A. late the wife of T. C. gentleman, by the description of A. H. of, &c. widow, W. C. and E. his wife, W. H. and F. his wife, and M. late the wife of T. C. which said A. E. F. and M. were the cousins and co-heirs at law of lord L. baron of A. in the kingdom of I. then lately deceased, of the one part, and W. B. of the other part, for the settling and assuring, &c. (dreed to levy a fine by A. H. one equal 4th part of the said manors, &c. to the use of A. H. in fee, and the other three undivided 4th parts to the appointment of W. C. and E. his wife *int. al.*) as in and by, &c.

That

That in pursuance of the said agreement a fine *sur consuance* was levied of said manor and premises, as of H. term, in the year of his late Majesty King George the 2d. in which fine the said A. H. &c. were the consors, and the said W. B. was the cousee. And that the said A. H. continued solely seized in fee in her own right of the said one undivided equal 4th part of said premises, until her intermarriage with T. C. of, &c. a lunatic, and since deceased.

That the said A. H. intermarried with the said T. C. on and the said M. intermarried with T. S. on the day of some month of , by indenture, bearing date , and made between said T. C. and A. his wife, T. S. and M. his wife of the one part, and the said W. B. of the other part. In consideration, &c. (Deed to levy a fine of a moiety of said premises in aforesaid indenture, which fine as to parts of said moiety, to the use of T. C. and A. for their lives, and the longest liver, and after their decease, one of the said part to the appointment of T. C. and the other to the appointment of A. and in default of such appointments to A.'s right heirs, and as to the parts to T. S. and M. his wife, for their lives, in the same manner as limited to T. C. and A.)

That in pursuance of said agreement, a fine *sur consuance*, &c. was levied of a moiety of said manors, &c. as of T. term, in the year in which the said T. C. and A. his wife, and T. S. and M. his wife were consors, and the said W. B. the cousee. And that the said T. C. and H. his wife, by virtue of said indenture of , and of said fine, became seized in fee of said parts of said moiety of said manor and premises.

That the said T. C. having the misfortune to become disordered in his mind, a commission in the nature of a writ *de lunatico inquirendo* issued, to inquire into his insanity, and by an inquisition taken thereon on the, &c. it was found that the said T. C. was a lunatic, and that he did not enjoy lucid intervals, so as to be sufficient for the government of himself and his estate. And that by virtue of a grant, under the great seal of Great Britain, bearing date, &c. the custody of the person of the said T. C. was granted to said A. his wife, and the custody of his estate was granted to said W. C.

That the owners of the other parts of said premises, were in the year , desirous of having said premises sold, but in case the said other parts of said premises should have been sold separately from that belonging to said T. C. and A. his wife, would have been considerably diminished in its value thereof, and notwithstanding it was for the benefit of said T. C. and A. his wife, and all persons who might claim any interest in the said one part of said premises, should be sold entire, yet, by reason of the lunacy of said T. C. a good title could not be made to a purchaser of the said one part of said premises, belonging to said T. C. and A. his wife, without the aid of parliament, whereupon application was in made to parliament, for an act for that purpose, and accordingly, by an act, intituled, "An act for sale of the "real estate of T. C. and A. his wife, and for laying out the money arising by such sale, in the purchase of other lands and hereditaments, for "the benefit of said T. C. and H. his wife," duly made and passed in the year of his present majesty's reign, it was, amongst other things, enacted, that, &c.

That

That in pursuance of said act of parliament, said premises were, in _____, sold and conveyed to A. B. for £ _____, and after deducting the expenses attending the procurement of the said act and sale, the residus of the money arising by sale of said one-fourth part of said T. C. and A. his wife, was, in pursuance of said act, paid into the bank in the name of the Accountant-General, and afterwards, by an order of _____ laid out in the purchase of £ _____ 3 per cent. consolidated bank annuities, which were transferred to, and are now standing in the name of the said Accountant-General, on the trusts in the said act mentioned, and the dividends thereof were applied for the benefit of said T. C. and A. his wife, during their respective lives.

That the said A. C. departed this life on, &c. leaving said T. C. her surviving, and the said P. H. widow and relict of said W. H. her heir at law: and having first made her will in writing, bearing date, &c. whereby, after reciting the power and authority given to her by said indenture of _____ of _____, she, by virtue thereof, did give, &c. (a third part of what she had power to dispose of, to W. C. and E. his wife, and if they died in her life-time, to the children of R. P. by C. his wife; the other third to W. H. and F. his wife, with the same limitation over in case of their deaths before the Testatrix, and the remaining third she gave to said M. S. for life, remainder to children of R. P. and said E. his wife, and appointed W. C. sole executor.)

That the said F. H., who survived said W. H. her husband, departed this life on, &c. leaving Defendants E. T. widow, and W. T. her heirs at law, having first duly made her last will in writing, bearing, &c., and thereby, amongst other things, devised, &c. (all that she was entitled to under the will of her sister A. C. to W. C. for life, and after his death, to assign a third of the monies arising from the sale to M. B. M., the other third to T. S., and the remaining third to E. P. for life, remainder to all her children except M. F.,) and appointed R. M. husband of M. B. M. and W. H. executors of her said will, who proved the same in the proper Ecclesiastical Court, and are become her personal representatives, and have paid all her debts.

That said W. C. who survived said E. his wife, died on, &c. leaving T. M. his heir at law, having first made his last will, bearing date, &c. and thereby, among other things, gave and devised, &c. (all what he was entitled to under the will of A. C. to all the children of R. P. the elder, as tenants in common,) and appointed W. H. and L. H. executors, Defendants, who proved same in the proper Ecclesiastical Court, and paid all his debts.

That said T. C. died on, &c. without ever having enjoyed any lucid intervals from the time of having been first found a lunatic, and without having executed such appointment as by said indenture of _____ he was empowered to make; and that said F. H. as heir at law of said A. C. being, by virtue of the limitations contained in said indenture in favor of her right heirs, well entitled to one moiety of said £ _____, or the lands to be purchased therewith, by virtue of said A. C.'s will, and her having survived said W. H. her husband, such the right of said F. H., by virtue of her said will, and no appointment having been made by said T. C., vested in the Plaintiff R. W. and Defendant W. H. upon the trusts therein

therein mentioned, and by virtue of the benefits contained in the wills of said A. C. and W. C., the Plaintiffs R. P. the younger, W. P. &c. &c. became entitled to the other two-thirds of a moiety of said £ , or the lands to be purchased therewith, as in said two wills particularly mentioned.

That said F. T. is lately dead, leaving said Defendant W. T. her heir at law, and also sole heir at law of said F. H. deceased.

That said £ 3 per cent. annuities have not been laid out in the purchase of any lands, &c. but are still standing in the name of said Accountant-General, in trust, in the said matter of A. B. the purchaser, and the dividends which have accrued thereon since the death of said T. C. up to, &c. amounting to £ , have been received by said Accountant-General, and placed to the credit of said matter. And the Plaintiffs being respectively interested in said £ and the dividends thereof, hoped to have had the said bank annuities and said dividends transferred and paid accordingly, and that no opposition would have been made thereto, but that the said Defendants A. C. and T. C. object thereto, under a pretence that they are interested in said stock and dividends, alleging that said T. C. before he became a lunatic, and on, &c. duly made his last will in writing, in the presence of three subscribing witnesses, and then by gave to them and to G. C. and H. C. who died in the life-time of T. C. £ , share and share alike, to be paid to them on the death of his said wife; and that said T. C. by said pretended will, charged said one-fourth part of said moiety of said premises with the payment of said legacy, and that by virtue of said will, which they alledge is a due execution of the power reserved to him by said indenture of, &c., they are now entitled to be paid the said legacy of £ out of said £ 3 per cent. Consolidated Bank Annuities.

Charge contrary, and that said T. C. never did execute any will, or if he did, such will was not duly executed, &c. as required by said indenture of, &c. or as required by law, &c.; but if said T. C. ever executed such will, and according to the terms of the power given him by said indenture of, &c. which they do not admit, yet they *charge* that he afterwards destroyed or cancelled the same, which Defendants will sometimes admit.

Pretend, that he destroyed or cancelled the same during his insanity.

Charge contrary, and that if there ever existed such supposed will, the said T. C. destroyed or cancelled the same previous to his lunacy, and whilst *compos mentis*, and in some lucid interval. But even if the claim of said Defendants could be substantiated, Plaintiff R. M. and Defendant W. H. allege that they are, under said will of said F. H. entitled in trust to all such part of said moiety as is not effectually disposed of by said will, and that said E. T. and W. T. who are heirs at law of said F. H. and also of said A. C., and T. M. who is heir at law of said W. C. make some objection to said stock and dividends being so transferred, alleging that the wills of said A. C., F. H., and W. C. were not executed so as to affect their interest therein, and that they are respectively entitled to some shares or interests therein, and of the dividends thereof, or of the lands to be purchased therewith. And the said T. M. as heir at law of said W. C. the trustee named in the said act, also

also makes some objection to such transfer without the decree of this honorable Court. To the end, &c.

Prayer.

That the wills of the said A. C. &c. may be established, and that it may be decreed that the Accountant-General do transfer to Plaintiffs R. M. and Defendant W. H. upon the trusts aforesaid, one moiety, and also one-third of a moiety of said £ 3 per cent. &c. and pay them a just proportion of said dividends accrued due thereon since the death of said T. C., and to accrue due thereon before such transfer, and that he may also transfer the remaining two-thirds of one moiety of said £ and the dividends thereof, to or for the use of the Plaintiffs R. P. the younger, W. P. &c. in equal proportions, and that in case any such will shall be pretended to have been made by said T. C. as aforesaid, then that an issue may be directed to try the validity thereof, and if such will shall be found on the trial of such issue to be valid, then that so much of said moiety as is not effectually disposed of may be paid to Plaintiff R. M. and Defendant W. H. with the dividends thereof, upon the trusts aforesaid; and for further relief.

Bill to raise a Sum of Money which had been paid by Plaintiff, Tenant for Life under a Will, to make up a Legacy charged on such Estate, the next Tenant in Tail being an Infant. Freehold—Copyhold—Reversions—Personals.

States, that J. N. late of, &c. deceased, in his life-time was seized of in fee-simple, and in possession of, divers freehold manors, messuages, farms, lands, tenements, and hereditaments, situate, &c. and also seized of, or well entitled to him and his heirs, according to the custom of the several manors of which the same were holden, of divers copyhold lands, hereditaments, and premises, situate, &c.; and also entitled to the reversion in fee-simple, expectant on the death of, &c. of or to divers other freehold lands, estates, or premises, &c. situate, &c. of considerable yearly value in the whole; and also possessed of or entitled to a personal estate and effects, to a large amount and value in the whole, and being so seized, and having duly surrendered his copyhold lands and premises, according to the custom of the several manors of which the same were respectively holden, to the uses of his will, duly made and published his last will and testament in writing, &c.

It then goes on to state the death of Testator, leaving Plaintiff, an infant, his eldest son and heir at law, his daughter, also an infant, him surviving. Executors proved. But two of the trustees never in any manner acted in the trusts and executorship of will, or possessed any part of Testator's estate or effects, or of the produce thereof; W. R. alone acted in the trusts and executorship of will, and by virtue thereof, or of the pro-
bate

bate thereof, possessed himself of the personal estate and effects of or belonging to the said Testator at the time of his death, to a large amount and value in the whole, and much more than sufficient to pay all his funeral expenses, debts, and the several legacies given and bequeathed by his said will, except said legacy of £ to said W. his daughter, Plaintiff's sister; and soon after Testator's death, all his debts, together with the several legacies given by his will, except £ were duly paid and satisfied out of Testator's personal estate and effects not specifically bequeathed by will.

That in tenant for life of estates mentioned in the will died. Plaintiff attained his age of twenty-one, and became entitled, by virtue of will, as tenant for life, to possession of all his aforesaid estates, and he accordingly entered upon and took possession of same.

That W. R. who alone acted in the trusts and executorship of will, upon or soon after Plaintiff's attaining his age of twenty-one, passed or settled his accounts with Plaintiff touching the personal estate and effects of Testator, and paid unto Plaintiff the sum of £ , being the balance then appearing to remain in his hands on the taking said account, and also transferred unto or into the name of Plaintiff, several capital or principal sums in government securities, and in the stocks or funds, to the amount or value of £ or thereabouts, being the remainder of the residue and clear surplus of said Testator's personal estate and effects.

That in , W. N., Plaintiff's sister, intermarried with the right hon. sir J. S. bart., and that they had issue one son only, J. S. now an infant; in Plaintiff's sister died, leaving her husband sir J. S. and the said J. S., then and still an infant, her eldest and only son, and also her heir at law, her surviving. W. R. during minority of Plaintiff, paid respective sums, given and directed to be paid by the will, for the maintenance of W. N. Plaintiff's sister, out of personal estate of Testator. And from and after Plaintiff's attaining his age of twenty-one years, Plaintiff from time to time paid out of his own proper monies such sums for the maintenance of his sister, until the day of when she attained the age of twenty-one, and from that time the interest of said principal sum of £ .

That in Plaintiff paid unto sir J. S., who hath, since the death of the said W. his said late wife obtained letters of administration of her personal estate and effects, and thereby became her personal representative, out of his own proper monies, the principal sum of £ , Plaintiff's said sister's fortune, and the arrears of interest for the same to that time. And sir J. S. signed and gave unto Plaintiff a receipt for same, as in and by the receipt, &c.

That Plaintiff, in consequence of such payment, became a creditor upon said real estates, charged by his said father's will with payment of said legacy, for so much and such part thereof as the residue and clear surplus of Plaintiff's father's personal estate and effects, or of the produce thereof, paid to Plaintiff as aforesaid by the said W. R. would not extend to pay.

That in , by an act of parliament made and passed in the year of the reign of his present majesty, and in the year , intituled,
"An

"An act for vesting part of the settled estates of J. N. esq. in the counties of, &c. in trustees, to be sold, and for purchasing other estates in lieu thereof, to be settled to the same uses," whereby, after reciting, &c.

That since passing of the said act, and in pursuance of the powers in them thereby vested, trustees have sold several parts of the estates therein comprised, and have invested the produce of money arising by sale thereof in the purchase of other estates, situate in the several parishes of, &c., and which have been by certain deeds or instruments in writing, bearing date respectively, &c. duly and properly conveyed and settled under the direction of this honorable Court, to the uses of said will of said Testator.

That Plaintiff having paid said legacy of £ to sir J. S. is entitled to have so much thereof, or such sum of money as exceeded the amount of said Testator's personal estate, paid and transferred to him as aforesaid, by W. R. Testator's only acting executor, raised and paid out of said real estates devised by his will, and conveyed and settled as aforesaid, pursuant to said act of parliament, and also out of his father's real estates remaining unsold, situate, &c. and devised by his said will. And Plaintiff well hoped same would have been raised and paid to him accordingly.

But now, &c. that the said J. S. the infant, who, by virtue of the will is first tenant in tail of all the aforesaid real estates devised by Testator's will, and also of estates conveyed and purchased as aforesaid pursuant to said act of parliament, (Plaintiff being unmarried, and having no issue male,) objects to or opposes the raising and paying unto Plaintiff any part of said legacy of £ out of the aforesaid real estates, or any part thereof, at sometimes alleging that W. R. only acting executor of Testator's will, possessed assets more than sufficient for payment of aforesaid legacy or portion of £ , or however that the balance remaining in his hands on settlement of accounts with Plaintiff, touching such personal estate and effects, exceeds the amount of the money paid and transferred to Plaintiff as aforesaid, notwithstanding said W. R. alleges and insists to the contrary. By reason whereof, and also of infancy of said J. S. Plaintiff is unable to get such sums raised and paid out of the aforesaid estates, pursuant to directions of said Testator's will, without the aid or assistance of this honorable Court.

At sometimes Defendant J. S. the infant, claims some other right or interest in the aforesaid estates or premises, or some parts thereof; but at sometimes refuses to discover the particulars thereof, or how he derives or makes out the same.

Pretence some other mortgages, &c.

Prayer.

And that a sum of money may be raised out of Testator's real estates situate in, &c. not comprised in the aforesaid act of parliament, and also out of the estates purchased with the money arising by sale of Testator's real estates sold pursuant to the directions of the said act, sufficient or competent with the money paid and transferred to Plaintiff as aforesaid by W. R. the Testator's acting executor, as the balance

balance of his accounts of the said executorship, to make up the aforesaid principal sum of £ , paid by Plaintiff as aforesaid to sir J. S. in satisfaction or discharge of the legacy or portion by the said will given to Plaintiff's said sister. And that the aforesaid real estates, or a competent part thereof, may be sold or mortgaged for that purpose; and that all proper parties may join therein, as this honorable Court shall direct; and that such money, when raised, may be paid to Plaintiff. And for further relief.

J. S.

SECT. XVI.—BILLS FOR LEGATEES.

Bill by Legatees against Executors, for Payment of Legacies, and Account.

Humbly complaining, shew unto your Lordship, your Orators and Oratrixes, H. K. the elder, of , administrator of the goods and chattels, rights and credits, of F. K. late of , and son of the said H. K. deceased, H. K. the younger, of , and S. K. an infant, under the age of twenty-one years, to wit, about the age of twenty years, by the said H. K. the elder, her father, and next friend, that J. R. late of, C. &c. being possessed of or well entitled unto a considerable personal estate, duly made and published his last will and testament, and a codicil thereunto annexed, in writing, the said will bearing date on or about the day of , and by his said will, amongst other things, gave and bequeathed unto your Orator, S. K. the sum of £ , of lawful money, &c. to be paid at the age of twenty-one years, or day of marriage, which should first happen; and the said Testator also gave and bequeathed unto your Orator H. K. the sum of £ , of like lawful money, to be paid to him on his attaining his age of twenty-one years, and the said Testator, after giving divers other legacies, gave and bequeathed unto R. B. the Defendant hereinafter named, and W. R. H. of , and who departed this life in the life-time of the said Testator, the rest and residue of his estate and effects in trust, to be equally divided between such children of his, the said Testator's niece, M. K. as should still be living at the time of his decease, and thereby appointed the said Q. H. and R. H. executors of his said last will and testament, as in and by, &c. And, &c. that the said J. R. departed this life on or about the , without revoking or altering his said will, save by the said codicil, and, without revoking or altering the said codicil, or any part thereof; whereupon the said R. B. the executor in the said will named, duly proved the same in the proper Ecclesiastical Court, and undertook the executorship thereof, and possessed himself of the personal estate and effects of the said Testator to a very considerable amount, and more than sufficient to discharge his just debts, funeral expenses, and legacies. And, &c. that the said F. K. in the said will of the said Testator named, and your Orator and Oratrix, H. K. the younger, and S. K. were the only children of the said M. K. in the said will named, who were living at the time of the death of the said Testator, became entitled to have and receive his said legacy of £ , so bequeathed to him as aforesaid, and also his third part or share of the said residue of the personal estate and effects of the said Testator, after payment of all his just debts, legacies, and funeral expenses; and your Oratrix, S. K. is entitled to have her said legacy of £ , and also her third part or share of the said residue secured for her benefit, until she shall attain her age of twenty-one years, or day of marriage; and your Orator, H. K. the elder, is entitled, as such administrator of the said J. K. as aforesaid, to have and receive the remaining third part or share of the said residue. And, &c. that the said J. K. departed

departed this life on or about, &c. intestate, and that, since his death, your Orator, the said H. K. the elder, has obtained letters of administration of the personal estate and effects of the said J. K. And, &c. that your Orator, H. K. the younger, attained the age of twenty-one years, on or about, &c. and being so entitled, your Orators have made frequent applications to the said R. B. to have the said legacy of £ , and the said two-third shares of the residue paid to them respectively. And your Oratrix hath also applied to him, the said R. B. to lay out and invest her said legacy of £ , and her third share of her said residue, upon some proper security, for her benefit, until she shall attain her age of twenty-one years, or day of marriage, with which just and reasonable requests your Orators and Oratrix well hoped that he, the said Defendant, would have complied, as in justice and equity he ought to do. But now so it is, &c. absolutely refuses so to do, sometimes pretending that the said Testator never made any such will, as is hereinbefore stated. Whereas your Orators and Oratrix charge the contrary thereof to be true, and so the said Defendant will at other times admit. But then again he pretends, that the said Testator's personal estate was very small and inconsiderable, and not nearly sufficient to pay and satisfy his just debts and funeral expenses. Whereas your Orators and Oratrix expressly charge, that the personal estate and effects of the said Testator were much more than sufficient to discharge the said Testator's just debts, funeral expenses, and legacies; and so it would appear if the said Defendant would set forth a full, true, and particular account, of all and every the personal estate and effects of the said Testator, come to his hands or use, and also a full, true, and particular account of the manner in which he hath disposed of or applied the same, but which the said Defendant refuses so to do. All which, &c. To the end, therefore, &c. that they may set forth whether the said Testator did not make his will and codicil of such date, purport, and effect, as are hereinbefore stated, or of some other, and what purport and effect in particular; and whether the said Testator did not depart this life at or about the time in that behalf before mentioned, or any, and what other time, and whether he ever, and when, and how in particular, revoked or altered his said will, save inasmuch as the same might be revoked by the said codicil, and whether he ever, and when and how, revoked the said codicil; and whether the said R. H. in the said will named, did not die in the life-time of the said Testator, and whether the said Defendant did not prove the same in some, and what Ecclesiastical Court, and did not take upon himself the execution thereof, and is not the personal representative of the said Testator, or who is such personal representative in particular; and whether the said Defendant hath not possessed himself of the said Testator's personal estate and effects to a considerable, or some and what amount, and whether the same are more than sufficient to discharge his just debts, funeral expenses, and legacies; and whether the said J. K. deceased, and your Orator and Oratrix, H. K. the younger, and S. K. were not the only children of the said M. K. in the said will named, who were living at the time of the death of the said Testator; and whether J. K. did not depart this life on or about the time aforesaid; and whether the said J. K. did not die intestate; and whether your Orator, the said H. K. the elder, has not obtained letters of administration of his personal estate and effects, to be granted to him, or who else in particular has obtained such

such

such letters of administration, and whether your Orator, the said H. K. the younger, did not, at or about the time aforesaid, attain his age of twenty-one years, or at what other time, and whether your Orators and Oratrix are not entitled as aforesaid or if not, why not; and whether they have not made, or caused to be made, some such applications as aforesaid, or some other, and what applications; and whether the said Defendant hath not refused to comply therewith, and for what reason in particular, and that the said Defendant may set forth a particular account of all and every the personal estate and effects of the said Testator, come to his hands or use, and also an account of the manner in which he hath, or disposed of the same, and every part thereof.

Prayer.

And that the said Defendant may answer the premises, and that an account may be taken of the personal estate and effects of the said Testator, come to the hands of the said Defendant, and also an account of his funeral expenses, debts, and legacies, that the same may be applied in a due course of administration, and that the said Defendant may be decreed to pay to your said Orator H. K. the younger, his aforesaid legacy of £ , and that the clear residue of the said Testator's personal estate and effects may be ascertained, and that such share thereof as shall appear to belong to your Orators, may be paid to them respectively, and that your Oratrix's said legacy of £ , and also such share of the said residue as she shall appear to be entitled to, may be secured for her benefit; and that, for those purposes, all proper directions may be given. And for general relief, &c.

J. L.

Bill by residuary Legatees against Executors to establish a Will for the usual Accounts, that Executors may be charged with any Losses for not laying out Money as directed; that Widow may sign and deposit an Inventory of Household Furniture to which she was entitled for Life.

Humbly complaining, shew unto your Lordship, your Orators and Oratrices J. A., of, &c. S. P., of, &c. widow, E. U., of, &c. spinster, R. A., of, &c. widow, and G. T. W. and A., his wife; that K. A., late of, &c. duly made and published his last will and testament, in writing, bearing date, &c., which was executed and attested, as by law is required for passing real estates by devise, and thereby, after giving two pecuniary legacies, the said Testator gave, devised, and bequeathed all his estate and effects, as well real as personal, whatsoever and whensoever, and of what nature, kind, or quality soever, unto his brother, your Orator, J. A., and his friends W. N., of, &c. W. H., of, &c., one of the Defendants hereinafter named, and T. S., another Defendant hereinafter named,

named, their executors, upon trust, &c. (to make sale of his estate, and in so doing should give a preference to his relations, and out of the produce to pay debts and legacies, &c. and to invest £ , to be payable to his niece A. U. at twenty-one, or marriage, who afterwards died in Testator's life-time, to pay his wife an annuity of £ , and as to £ for such persons as his wife should appoint; and as to the remainder, one-fifth to his nephew J. A., another Defendant, and S. P., the children of his brother R.; one-fifth to his nieces, plaintiffs, E. U., R. A., and A. U., who died in Testator's life-time, one-fifth to plaintiff J. A.; one-fifth to the children of his brother R.; and the remaining fifth part to the children of his sister M., then the wife of W. N.) And your, &c. that the said Testator afterwards duly made and published a codicil, in writing, to his will, bearing date, &c. and executed, &c. and thereby, after reciting, &c. (appointed J. R., of, &c. J. K., of, &c. two other Defendants, and his wife S. A., executors, instead of those mentioned in said will; and stating that he had purchased some lands, and directing them to be sold to pay debts and legacies, &c. and the overplus to be placed out at interest and paid to his wife, and giving her the use of the furniture, and cows and horses for her life, and, after her decease, the principal to be paid to nephews and nieces, as directed by the will,) as in and by, &c. And your, &c. that the said Testator K. A. departed this life, on or about, &c. without issue, and without having altered or revoked his said will, other than by the said codicil, and without having altered or revoked his said codicil, leaving his nephew, the said J. A. one of the Defendants, &c. who was the only son of the said R. A. the elder brother of the said Testator, his heir at law; and thereupon the said S. A. the widow of the said Testator, another Defendant, &c. the said J. R. and J. K. the executrix and executors, in the said codicil named, duly proved the said will and codicil in the proper Ecclesiastical Court, and undertook the executorship thereof, and by virtue thereof possessed themselves of the personal estate and effects of the said Testator to an amount and value greatly more than sufficient to pay and satisfy his funeral expenses, just debts, and legacies; and the said S. A., J. R., and J. K. also entered into the possession of the freehold and leasehold estates of the said Testator, or into the receipt of the rents and profits thereof, &c. And your, &c. that your Orator J. A. hath not, nor had, at the death of the said Testator, any child, and that your Oratrix A. W. was, at the death of the said Testator, the only surviving child of the said Testator's brother R. A., and, as such, is sole legatee of one-fifth of the said Testator's residuary estate; and that W. N. the younger, who survived the said Testator, but is since dead, and T. N., of, &c. another Defendant, &c. were, at the death of the said Testator, the only surviving children of the said Testator's sister M., and, as such, were legatees as tenants in common of one other fifth part of the said Testator's said residuary estate. And your Orators and Oratrices shew, that the said W. N. the younger, had, before his death, attained his age of twenty-one years, and that he duly made and published his last will and testament, in writing, and thereby appointed his said brother, the said defendant T. N., and J. H., of, &c. and S. H., of, &c. other of the Defendants hereinafter mentioned, the executors thereof, who have duly proved the same in the proper Ecclesiastical Court, and are thereby become representatives of the said W. N.; and your Orators

and Oratrixes shew, that the said A. U., afterwards A. L., one of the nieces of the said Testator, having died in his life-time, the one-third of one-fifth part of the said Testator's said residuary estate, bequeathed to her as aforesaid, became lapsed. And your, &c. that your Orators and Oratrixes, except your Orator G. T. W., are next of kin of the said Testator, and were with the said W. N. the younger, deceased; and the said Defendants J. A. the younger, and T. N., the only next of kin of the said Testator at his death, and are, together with the said S. A., the widow of the said Testator, entitled to divide the said lapsed legacy amongst them, according to the proportions specified in the statute of distributions. And your Orators and Oratrixes shew that your Orator J. A. hath, on their part, in a friendly manner, repeatedly applied to the said Defendants S. A., J. R., and J. K., and hath requested them to come to a just and true account of their receipts and payments as executrix and executors, and in the trusts of the said Testator's will, and to lay out and invest the said Testator's residuary estate, upon proper security, particularly in the public or government funds, for the benefit of all parties interested therein; and your Orators and Oratrixes well hoped, &c. refuse so to do. And the said Defendants, at some times, pretend, that the personal estate and effects of the said Testator were small and inconsiderable, and not sufficient to pay and satisfy his funeral expenses and just debts, and that they have been obliged to apply the rents, profits, and produce of the real estate of the said Testator, in aid of his personal estate, in payment of his funeral expenses, debts, and legacies, whereas your Orators and Oratrix charge, that the personal estate of the said Testator was greatly more than sufficient for payment of his funeral expenses, debts, and legacies, and that so it would appear if the said Defendants would set forth, as they ought to do, a just and true account thereof, and of their application thereof; and your Orators and Oratrix further charge, that the freehold and leasehold estates of the said Testator, or some of them, have been sold by the said Defendants, and a very large sum of money, but for the default and neglect of the said Defendants, might have been produced therefrom, and invested upon the trusts of the said Testator's will, to the great advantage of the residuary legatees, who are ultimately to divide the capital of the said residue; and your Orators and Oratrix charge, that the said Testator died seized, among other estates, of a certain messuage, tenement, or farm, called, &c. and that the said Defendants, under the pretence of some verbal agreement made by the Testator in his life-time, but which was in no manner binding upon them, have sold the said messuage or tenement and farm at considerably less than its real value, or what the same would have produced at a public sale, and in the place of laying out and investing the purchase-money in such manner as should be most for the advantage of the residuary legatees, Defendants have permitted the purchase-money, or the greatest part thereof, to remain in the hands of the purchaser on his personal security, and Defendants have sold other parts of the real estates of said Testator by auction, particularly a part of his estate at, &c. in a very improper and incautious manner, and have in like manner neglected to get in, lay out, and invest the produce thereof, as should be most advantageous for the residuary legatees, and have permitted the same, or the greater part thereof, to remain on mortgage of the estate so sold

sold as last aforesaid, and in such several sales have neglected to give a preference to the relations of the said Testator, pursuant to the directions in his said will for that purpose; and your Orators and Oratrix further charge, that the said Defendant, J. A., pretends that the said will and codicil of the said intestate were not executed and attested so as to pass real estates by devise, and that he is therefore entitled to the real estate of the said Testator, as his heir at law; and your Orators and Oratrix further charge, that the said Defendants, W. N., the elder, W. H., and J. O., who, with your Orator, J. A., are the surviving trustees and devisees, named in the will of the said Testator, claim to have some legal estate or interest in the freehold property of the said Testator, under and by virtue of his said will; and your Orators and Oratrix charge, that the said defendant, S. A., ought to have made out and sign, and should now make out and sign, upon oath, and deposit with one of the Masters of this honorable Court, for the benefit of all persons interested, an inventory of the horses, cows, and furniture, which she claims to have the use of, for life, under the said will and codicil of the said Testator. All which, &c.

Prayer.

And that the said Defendant may answer the premises, and that the said will of the said Testator may be decreed to be well proved, and the trusts thereof performed and carried into execution; and that an account be taken of the personal estate and effects of the said Testator which have come to the hands or use of the said Defendants, S. A., J. R., and J. K., or either of them; and that an account may also be taken of the rents, profits, and produce of the real estates of the said Testator which have come to the hands or use of the said Defendants, or either of them, or but for their wilful default or neglect might have been received by them, some, or one of them. And that the estates of the said Testator, if any, remaining unsold, may forthwith be sold, by and under the direction of this honorable Court. And that all proper parties may join in such sales, and that the said Defendants may be made answerable for such loss or losses as shall appear to have been sustained, to the prejudice of the said Testator's residuary estate, by reason of the said Defendants having refused or neglected to lay out and invest the same according to the trusts of the said Testator's will and codicil; and that an account may be taken of such loss. And that an account may also be taken of the funeral expenses, debts and legacies of the said Testator, and that the same may be duly paid. And that the clear residuary estate of the said Testator may be ascertained and secured by this honorable Court, for the benefit of all persons interested therein. And that the said Defendant S. A. may sign and deposit with one of the Masters of this honorable Court, an inventory of the horses, cows, and furniture which she claims to be entitled to for her life, under the said Testator's will and codicil. And for further relief, &c.

J. L.
Bill

Bill by a Wife against Executor and her Husband, for a Legacy left to her sole and separate Use.

Humbly, &c. your Oratrix E. H. wife of F. H. of, &c. by I. T. of, &c. her next friend, debtor, &c. that M. M. of, &c. your Oratrix's sister, being possessed of a considerable personal estate, did, on or about, &c. duly make and publish her last will and testament in writing, and thereby, amongst other things, bequeathed as follows, (that is to say, &c. gave Plaintiff £ to her sole use,) as in and by, &c. And your, &c. that the said Testatrix departed this life, on or about, &c. without altering or revoking her said will, and the said W. M. duly proved the said will in the proper Ecclesiastical Court, and took upon himself the execution thereof, and by virtue thereof, hath possessed himself of the said Testatrix's personal estate to a very considerable amount, and more than sufficient to discharge her just debts; funeral expenses, and legacies. And your, &c. that she hath several times since the said legacy of £ became due and payable, applied to the said W. M. to have the same applied and paid, with which just and reasonable requests your Oratrix well hoped, &c. But, &c. he refuses to pay your Oratrix's said legacy, and in order to colour the said refusal, he does at some times pretend, that the said Testatrix never made such will. *Charge contrary.* And so the said confederate will at other times admit, but then he pretends, personality insufficient, and that he hath disposed of the same in satisfaction of what debts were due, as far as it would extend. *Charge contrary, &c.* And he hath in a letter dated, &c. assented to the same and promised to pay it. And the said Defendant I. H. insists that the said legacy ought to be paid to her for her separate use. All which, &c.

Prayer.

And that the said Defendant W. H. if he shall admit assets, may be decreed to pay to your Oratrix the said sum of £ with interest for the same. And if the said W. M. shall not admit assets, then that an account may be taken of the personal estate of the said Testatrix, and of her debts, legacies, and funeral expenses. And that her personal estate may be applied in a due course of administration. And for further relief, may it please, &c.

W. A.

Pray Subpœna against W. M. and F. H.

SECT. XVII.—BILL TO SET ASIDE AN AWARD.

Bill to have Arbitration Bonds delivered up to be cancelled, the Award being void, and an Injunction from proceeding on said Bonds.

Humbly complaining, shew unto your Lordship, your Orators P. B. of _____, and C. M. of _____, that W. W. of _____, and J. B. of the same place also, druggist and chemist, Defendants hereinafter named, did, in or about the month of _____, carry on the trade or mystery of druggists and chemists together as partners, under certain articles of agreement, theretofore made between them, and bearing date on or about the _____ day of _____ whereby they had agreed to become co-partners in the said trade or mystery of druggists and chemists for the term of 21 years, from the day of the date thereof, if they should so long live, but determinable nevertheless by either of them, upon the first 7, or first 14 years of the said term of 21 years, upon, under, and subject to certain terms and conditions in the said articles of agreement expressed. And your Orators, &c. that certain differences and disputes having arisen between the said W. W. and J. B. it was agreed, by and between them, to refer their said differences and disputes to arbitration, and thereupon the said R. W. and J. B. each duly made, executed, and delivered to the other, a certain bond or obligation in writing, bearing date on or about the _____, whereby they respectively bound themselves, their heirs, executors, and administrators, the one to the other of them, in the penal sum of £ _____, with a condition to each of the said bonds respectively underwritten, whereby it was provided, that if the obligor to such bond, his heirs, executors, or administrators, did and should, &c. (*state condition of the bond*) as by the said bonds or obligations, and the said conditions respectively there underwritten, reference being thereunto had, when produced to this honorable Court, will, amongst other things, more fully and at large appear. And your Orators, &c. that the said R. W. and the said P. S. (the two arbitrators) proceeded on the said arbitration, but not agreeing to make an award therein, did, on or about the _____ under the power by the said arbitration bonds, in that behalf given, nominate and appoint R. F. of _____, an umpire between them respectively, of the matters so referred and submitted as aforesaid. And your Orators, &c. that in the course of the investigation of the aforesaid matters, it was suggested to the said W. W. by the said arbitrators, or one of them, that if the said arbitrators should determine upon a dissolution of the aforesaid partnership between him the said W. W. and the said J. B. and should award that the said W. W. should continue in the business, and pay and secure all debts owing by or to the said partnership concern, and should also pay a certain sum of money to the said

J. B.

J. B. a difficulty would arise for want of a sufficient security to the said J. B. against the outstanding debts and claims upon the co-partnership, and for the due payment of the said sum of money which might be so awarded to him as aforesaid. And your Orators, &c. that the said W. W. in order to obviate and remove the said difficulty, applied to your Orators, and requested them to join him as securities in a bond to the said J. B. for that purpose, and your Orators having consented thereto, they, and the said W. W. did, by a certain bond or obligation, sealed with their respective seals, and bearing date on or about the , jointly and severally bind themselves, and each of their heirs, executors, and administrators, for the payment of the sum of £ to the said J. B. with a consideration thereunder written, whereby, after reciting the said arbitration bonds, and the appointment of the said R. F. as umpire as aforesaid, and the difficulty suggested as aforesaid, to the said W. W. it was provided, that, &c. as in and by the last-mentioned bond or obligation, and the consideration thereto, reference, &c. And your Orators further shew unto your Lordship, that the said P. S. and R. F. did, on or about the said sign a certain instrument in writing, purporting to be their award in the matters aforesaid, whereby, after reciting the purport and effect of the said arbitration bonds, and the appointment of the said R. F. to be such umpire as aforesaid, and reciting further, that under such reference, &c. (*state that part of the award which bears upon the case*) as in and by the said award, reference, &c. And your Orators, &c. that although it is in the said award recited, that the said R. F. had taken upon himself the burthen of the said reference and submission, and had deliberately heard and considered the allegations and proofs of the said W. W. and J. B. respectively; and had perused, examined, and considered their account, yet, in truth, the said R. F. did never in any manner enter upon the subject of the said reference, nor heard or considered any allegations or proofs of either of the parties, nor ever in any manner perused, examined, or considered any accounts relating to the said matters in difference, or ever exercised any judgment whatsoever, as to any of the said matters; but the said award was prepared by the instructions of the said P. S. alone, without any interference whatever on the part of the said R. F. who was prevailed upon to sign it, by being assured, that his signature thereto was a mere matter of form. And your, &c. that since the making of the said award, a commission of bankrupt under the great seal of Great Britain hath been awarded and issued against the said W. W. who hath been thereupon duly found and declared a bankrupt, and the usual assignment of his estate hath been duly made to Defendants hereinafter named, who were duly chosen by the creditors as the assignees of the said bankrupt's estate. And your, &c. that the said award, so made as aforesaid, being utterly void as against your Orators, by reason that the same was signed by the said R. F. under the circumstances, your Orators have, by themselves, &c. to deliver up to your Orators the bond in which they had joined as the securities of the said W. W. as aforesaid, to be cancelled. And your Orators well hoped, &c. refuses so to do, and the said W. W. not having paid to the said J. B. the said several sums mentioned in the said award, nor having discharged the debts of the said co-partnership, the said J. B. threatens and intends to commence an action at law against your Orators upon their said bond. Charges, that the

the said assignees of the said W. W. refuse to join your Orators in the said suit. To the end, &c.

Prayer

That the said bond, so as aforesaid entered into by your Orators and the said W. W. may be delivered up to your Orators to be cancelled, or may be declared void, so far as the same respects your Orators, and that in the mean time the said J. B. may be restrained by the order and injunction of this honorable Court from commencing, prosecuting or proceeding in any action or actions at law against your Orators, or either of them, in respect of the said bond. And for general relief, may it please, &c.

J. L.

*Pray Subpoena against J. B. and
assignees of W. W.*

SECT. XVIII.—BILL FOR AN ANNUITANT.

Bill by Annuitant for an Account of Money produced by Sale of Timber, it having been felled for the Purpose of redeeming his Annuity, and the Trustees having applied it in Discharge of the Arrears of another Annuity.

Humbly complaining, sheweth unto your Lordship, your Orator, J. B. of, &c. that by indenture bearing date, &c. , C. S. of, &c. did grant unto your Orator, an annuity of £ payable half yearly during the life of the said C. S. and for the better securing the repayment thereof, the said C. S. did thereby assign unto, or in trust for your Orator, the dividends and interest of the sum of £ 3 per cent. consolidated bank annuities, then standing in the name of, &c. trustees named in the marriage settlement of the said C. S. And it was thereby provided and agreed, that the said C. S. should be at liberty to re-purchase the said annuity, upon giving three months notice thereof to your Orator, his executors, administrators, and assigns, as in and by, &c. And your, &c. that the said C. S. being entitled, as tenant for life, and in the possession of certain real estates hereinafter mentioned; and the said C. S. having proposed to purchase the said annuity, upon the terms provided by the said indenture of the , and to raise the sum necessary for that purpose, by a fall and sale of timber then standing upon the said estates, to which your Orator consented and agreed, the said C. S. duly executed a certain instrument in writing, or power of attorney bearing date, &c. whereby, after reciting, &c. (appointed I. H. of, &c. W. B. of, &c. and W. C. of, &c. three of the Defendants as the attorneys, to fell the timber, and to sell and to apply the produce in the redemption of the annuity. And your, &c. that by an instrument in writing, bearing date, &c. (being a declaration of trust, that the money received by the trustees in the fall of timber, was to be applied in the repurchase of Plaintiff's annuity) as in and by, &c. And your, &c. that after the execution of the said last-mentioned instrument, the said I. H. W. B. and W. C. by virtue of the said power of attorney, caused divers large quantities of timber, which were growing on the said manors and estates, or some of them, to be felled or cut down, and sold and disposed of, and the said W. C. received the monies arising by such sales, which amounted in the whole to the sum of £ and upwards. And your, &c. that the said W. C. notwithstanding the directions contained in the said instrument, or power of attorney, refused to apply the money received by him from the sale of the said timber in the repurchase of your Orator's said annuity, but hath, with the consent of the said I. H. and W. B. applied the same to his own use, or for some purposes not authorized

rized by the said power of attorney, and without your Orator's concurrence and consent, and expressly contrary to a notice given to him by your Orator's solicitor in that behalf, and which application so made by him the said W. C. was in direct breach of the trust reposed in the said J. H. W. B. and W. C. by the said instrument or power of attorney, and which they undertook to execute. And your, &c. that your Orator was and is, under and by virtue of the aforesaid power of attorney, and the appropriation thereby made of the said timber, and the money to arise by sale thereof, entitled to have a sufficient part of the said money (after deducting the charges and expenses attending the said sale, and the execution of the said trust) applied in the repurchase of your Orator's said annuity, upon the terms provided by the said indenture of the day of ; and your Orator being so entitled as aforesaid, he has, by himself and his agents, many times applied to the said J. H. W. B. and W. C. and requested them to account with your Orator for all the monies which have been received by them or either of them, or by any other person or persons, by their or any of their order, or for their or any of their use, for or in respect of the sale of the said timber, and to pay the same, or a sufficient part thereof, in or towards the repurchase of the said annuity of £ . And your Orator well hoped, &c. But now so it is, &c. they the said Defendants refuse to comply with your Orator's said request, sometimes pretending that the said C. S. never executed such instrument, or power of attorney as aforesaid, or any other instrument or power of attorney whatever, for the purposes aforesaid. Whereas your Orator charges the contrary of such pretence to be true as aforesaid. And so the said Defendants will at other times admit. But then they pretend, that they the said J. H. W. B. and W. C. never did cause any timber or other trees whatever, which were growing on the aforesaid manors and estates, or any of them, to be felled or cut down and sold and disposed of, under and by virtue of the said power of attorney, nor ever receive any sums or sum of money arising by such sale, or any part thereof. Whereas your Orator charges the contrary of such pretences to be true, and so the said Defendants will at other times also admit. But then they pretend, that the said W. C. hath accounted for, and paid the money arising from the sale of the said timber to the Defendants J. W. and F. E. and to their late partner F. B. now deceased, who, as such co-partners, were entitled to receive the same in preference to your Orator, and had some preferable claim or lien thereon, and had obtained some order of this honorable Court for the payment thereof, upon the said W. C. Whereas your Orator charges, that the said J. W. F. E. and F. B. had no lien or claim whatever thereon, nor any right or title to receive or call upon him the said Defendant W. C. for the payment of the same, or any part thereof, or to compel him to account for, or pay the same or any part thereof. And that if in truth any order of this honorable Court was made, respecting the payment of the said sum of money to the said J. W. F. E. and F. B. or in any manner relating thereto, yet that this honorable Court was surprised in such order, and was not in any manner apprized of the truth of the said transaction; and that the said W. C. confederating with the said J. W. F. E. and F. B. purposely suppressed or concealed from this honorable Court,
the

the authority under which the said timber had been cut, and the purpose for which it was meant to be applied. And your Orator further charges, that upon payment being made to the said I. W. F. E. and F. B. by the said Defendant W. C. (in case any such was made) he the said Defendant required and took from them some indemnity or security against the right or claim of your Orator to such money. And your Orator further charges, that if the said sum was paid by the said W. C. to the said I. W. F. E. and F. B. the same was so paid to them, under the pretence, that considerable arrears were due to them as co-partners, in respect of an annuity granted to them by the said C. S. Whereas your Orator charges, that the said I. W. F. E. and F. B. had, at the time of such payment, by their receipts from the estates and property of the said C. S. been fully paid all arrears of their said annuity. And your Orator charges, and humbly insists, that the said Defendants I. H. W. B. and W. C. having accepted the trusts under the said power of attorney, ought to have paid the said monies arising by such sale as aforesaid (after such deduction as aforesaid) or a competent part thereof to your Orator, in or towards the repurchase of the said annuity of £ . . . And that the said Defendant W. C. having paid the said monies arising by such sales aforesaid, contrary to the directions contained in the said power of attorney, was guilty of a breach of trust in so doing, and made himself personally liable to answer and pay the same to your Orator. And your Orator further charges, that the said I. W. F. E. and F. B. were, at or about the time of the making of the said power of attorney, fully apprized of the same, and of the purpose thereof, and did, by a letter, written by their solicitor, fully assent thereto. But nevertheless, the said Defendants refuse to comply with your Orator's aforesaid requests. And at some times the said Defendant C. S. claims some right or interest, to, or in such monies, or some part thereof. And the said Defendant C. S. resides abroad out of the jurisdiction of this honorable Court. All which, &c. To the end, &c.

Prayer.

And that an account may be taken of all and every the monies which have been received by the said I. H. W. B. and W. C. or by any person by their order, or for their use, for or in respect of such sales as aforesaid. And that the said Defendants may be decreed to pay what shall appear to be due from them respectively, upon the taking the aforesaid account. And that the same, after such deduction as aforesaid, or a competent part thereof, may be paid to your Orator, in or towards the repurchase of the said annuity of £ . . . And for further relief, &c.

R. S.

SECT. XIX.—BILL FOR DOWER,

Bill by an Infant against Executors, and Testator's Widow claiming Dower, for an Account of real and personal Estate and Incumbrances, affecting real Estates.

Humbly complaining, &c. your Orator, J. D. an infant under the age of twenty-one years; that is to say, of the age of three years, or thereabouts, by J. L. of D. &c. his next friend. That J. D. late of, &c. the father of your Orator, was, at the time of making his will hereafter mentioned, and at his death seized in fee-simple of or otherwise well entitled to divers freehold estates, situate, &c. and was also possessed of, interested in, and well entitled to considerable leasehold and other personal perty, and that the said J. D. duly made and published his last will and testament in writing, which, it is alledged, was duly executed and attested, as by law is required, to pass real estates, and thereby devised all his freehold estates unto your Orator and his heirs, and gave unto your Orator the residue of his personal estate, after payment of his funeral expenses and debts, and thereby appointed H. P. &c. of, and W. B. of, &c. two of the Defendants hereinafter named, his executors thereof, as in and by, &c. And your, &c. that the said Testator departed this life soon after the making of his said will, without having, in any manner, revoked or altered the same, leaving K. D. another Defendant hereto, his widow, and leaving your Orator, his only son and heir at law. And that the said H. P. and W. B. upon or soon after the said Testator's death, duly proved his said will in the proper Ecclesiastical Court, and undertook the executorship thereof, and, by virtue thereof, possessed themselves of his personal estate and effects, so far as they were able; and the said also entered into the possession of the freehold and leasehold estates, which were of the said Testator, or into the receipt of the rents and profits thereof, and have ever since continued, and now are in such possession or receipt. And your, &c. that repeated applications have been made on the part of your Orator to the said , to come to a fair and just account for the personal estate and effects of the said Testator, and of their application thereof, in order that the clear residue thereof may be ascertained and secured for the benefit of your Orator; and, in like manner, to account for the rents and profits of the said Testator's estates, received by them as aforesaid. And your Orator well hoped, &c. But now, &c. Pretence assets insufficient: charge contrary. And the said Defendants, at other times, pretend that the real estates of the said Testator were in some manner mortgaged or incumbered by him, in his life-time; and that the rents and profits received by them have been duly applied in keeping down the interest on such incumbrances, but the particulars of such incumbrances they respectively
refuse

refuse to discover. And your Orator further charges, that the said E. D. the widow of the said Testator, claims some right and interest in the real estate of the said Testator, by way of dower or thirds; but how, or in what manner, she makes out such claim, she refuses to discover. All which, &c. To the end, &c.

Prayer.

That an account may be taken of the personal estate of the said Testator, J. D. which have been possessed or received by the said Defendants, or either of them, or any other person or persons by their, or either of their order, or to their, or either of their use; and that the same may be applied in a due course of administration, and the clear residue thereof ascertained and secured for the benefit of your Orator; and that an account may also be taken of the rents and profits of the said Testator's real estates, which have been possessed or received by the said Defendants, or either of them, or by their, or either of their order, or to their or either of their use, and of their application thereof; and that some proper person may be appointed to receive the rents and profits of the said Testator's real estates, by and under the direction of this honorable Court; and that some proper person or persons may also be appointed the guardian or guardians of your Orator, with a suitable allowance for his maintenance and education for the time past, and to come. And for further relief. .

J. L.

States, that H. L. V. M. was, in the month of and now last past, tried in the High Court of Parliament on articles of impeachment, for high crimes and misdemeanors, exhibited against him by the knights, citizens, and burgesses, in Parliament assembled, in the names of themselves, and of all the Commons of Great Britain and Ireland.

That, by an order made by the Lords Spiritual and Temporal, in Parliament assembled, on the month of , it was ordered that your Lordship should give orders for the printing and publishing said trial, and in addition thereto, the several questions put to the Judges on Tuesday and Friday , of said month of , and their answers thereto, and that no other person should presume to print the same, as, by the journals of the House, will appear.

That, in pursuance of the said order, your Lordship was pleased to appoint Plaintiffs to print and publish the whole proceedings in said House, upon said impeachment, and to forbid any other person to print or publish the same, as by such appointment, in custody of Plaintiffs, will appear.

That, under the authority, and by virtue of said appointment, Plaintiff, who had been employed by the direction of the said House of Peers to take down said trial in short-hand, have, at a very considerable expense to themselves, been preparing to print and publish said trial, and other proceedings, on said impeachment, and same are in great forwardness, and nearly ready for publication. And Plaintiffs well hoped to have had the full benefit of said appointment, and of publishing said trial in pursuance thereof, and that no person would have interfered in publishing or printing said trial or the proceedings thereon, or any part thereof. But now so it is, &c.

Charge, that Defendant, J. C. hath printed, or caused to be printed, and said Defendants, T. N. L. &c. have published and sold, or caused to be published and sold, a book or volume, purporting to contain said trial and proceedings thereon, and they, said Defendants, have respectively so printed and published, or caused to be printed and published, same trial, and advertized same for sale, under the title and in the words and figures following; that is to say, "The trial, by impeachment, of Henry Lord Viscount M. for high crimes and misdemeanors, before the House of Peers, in Westminster Hall, between the and ; to which

“ which is prefixed a sketch of the life and political character of his Lordship, and complete account of the proceedings in Parliament relative to the charges on which the impeachment was founded.” And in such advertisement it is expressed that said trial, book or work, is sold by them, said Defendants, at the price of 10s. 6d. each in boards, or to that effect. And said last named Defendants respectively have or hath sold, or caused to be sold, a great number of copies to the amount of several thousand copies of said trial and proceedings, so published and advertized by them respectively as aforesaid, and have or hath many hundred copies more of the same printed book, ready for sale, and they, Defendants, are still continuing to sell same; and they have received considerable sums, and have made, and still do make considerable profit by the sale of such book, and so countenance such proceedings; they

Pretend that such book, so printed and published, and advertized for sale, and sold, does not contain any part of said trial of said Henry Lord Viscount M. in said High Court of Chancery, or of the proceedings on said impeachment, or that such part, if any, is inconsiderable, or that said publication contains other matter, which is their property.

Charge, that said publication, book or work, contains the speeches and evidence, or great part of the speeches and evidence delivered and given upon said trial, and the defence of said Henry Lord Viscount M. by his counsel, and other parts of the proceedings on the said trial, and that the rest of said publication is very considerable, and so said Defendants well know, but contend they have respectively desisted from publishing and selling said book, the contrary whereof Plaintiffs charge to be the truth.

Charge, that although Defendants, T. N. L. &c. have, as they have alleged, discontinued the sale of said work, at their own shop or warehouse, yet the same is now selling at the shops or warehouses near to or adjoining the shop or warehouse of them the said last named Defendants, and at divers other places.

Charge, that said publication is now selling, and sold by the directions, and on the account and for the benefit of said last named Defendants; and said Defendant, J. C. threatens and intends to print, and said other Defendants threaten, and intend to continue to publish and sell the said trial, for their own benefit, and refuse to account with Plaintiffs for the profits which they have already made for the publication and sale thereof. All which, &c. Whether, &c.

Prayer.

And that they may set forth a full, true, and particular account of all the numbers, parcels, or copies of the said book or publication, which they, or either of them, or any person, by their or either of their order, or for their or either of their use or benefit, have or hath sold or disposed of, or caused to be sold or disposed of, and when and by whom, and to whom, and for what sums of money the same respectively were sold and disposed of; and also a full and particular account of all the profits which they, and each of them respectively, or any person or persons by their, or either of their order, or for their or either of their use, have or hath made, by means of said sale and publication,

and

and that Defendant, J. C. may set forth how many, or what number, of copies of said book, work, or publication, he hath printed, or caused to be printed. And that all the said Defendants may be respectively restrained by the order and injunction of this honourable Court, from the further printing, publishing, selling, or exposing to sale, by themselves, or their agents or servants, the said book, work, or publication, or so much thereof as concerns or relates to the said trial of the said Henry Lord Viscount M. and the proceedings thereon, or any other book, work, or publication containing the same, or any part of the said trial, or the proceedings thereon; and that said Defendants, T. N. L. T. H. C. O. and O. R. may be decreed to come to a just and fair account with Plaintiffs for the produce and profits of the said book, work, or publication, and to pay to Plaintiffs what shall be found coming to them on the taking of such account, after making to them, the said last named Defendants, all just allowances. And for further relief.

J. J.

N. B. Upon the filing of this bill, the Plaintiffs moved for an injunction to restrain the Defendants from printing and publishing, &c. upon which the Defendants submitted a case of the circumstances for the opinion of the Solicitor General, whether the Lord Chancellor, by order of the House of Lords, had the power of granting the exclusive right of publication, and whether an injunction could be obtained, or an action brought either in a court of equity or law against Defendants, for such publication; upon which case, the Solicitor General gave the following opinion. "I am of opinion, that by law Messrs. G. have not the exclusive privilege to publish the trial of lord M. and that they could not, by filing a bill in equity, obtain an injunction to restrain any person from publishing the trial, or maintain an action against any person who published it; but the House of Lords, having made an order that no person shall presume to publish the trial, but under the orders of the Lord Chancellor, I apprehend that the House would, upon a complaint being made to them, consider any person who printed it, except Messrs. G. as guilty of a breach of privilege, and would probably commit such person to prison for that offence. The legality of such a commitment might be questioned by the party suing out a writ of *habeas corpus*, I cannot say, with confidence, what would be the result of such a proceeding, but the strong inclination of my opinion is, that the order of the House of Lords could not legally be enforced, and that a commitment, founded upon it, could not be supported."

S. R.

The motion for the injunction was made by the Attorney General, on the _____, which was resisted by Mr. P. Mr. F. and Mr. L. upon the ground that the court would not grant such injunction, unless a clear right was shewn to exist. The Lord Chancellor, however, thought otherwise, and granted the injunction, and founded his judgment solely upon the case of *Bathurst v. Kearsley*, which was thought to be rather a strain of prerogative.

Bill

In the Exchequer,

Bill by the Owner of a musical Copyright, against a Dealer in Music, who had infringed his Right; Inquiry as to Books.

Humbly complaining, sheweth unto your Honors, your Orator, W. F. of, &c. musical instrument maker, debtor, &c. that J. H. of, &c. composed an overture or symphony for several instruments, sonatas for the harpsichord, with an accompaniment for a violin and violincello, hereinafter more particularly mentioned. And your Orator further sheweth unto your Honors, that the said J. H. being the author and composer of the said musical works, was entitled, to him and his assigns, to the sole liberty of printing and reprinting such works, for the term of years, to commence from the day of first publishing the same, and being so entitled, he sold and assigned to your Orator, for a full and valuable consideration, which your Orator duly paid him all his aforesaid compensations, and all his, the said J. H.'s right, title, and interest in them, and every of them. And the said J. H. caused to be delivered to your Orator a MS. for the same; and your, &c. that your Orator caused the said overture to be engraved at a great expense, and first published the same on or about, &c. under the name and description of a favourite overture, in all its parts, composed by J. H. of, &c. and published by his authority (*state the other publications in the same way*). And your, &c. that he hath always had exposed to sale a sufficient number of these overtures or symphony, and of the said works, called, &c. for the use of the public, at a fair and just price, and now hath a great number of copies of the said overture or symphony, and of the said books or works remaining on his hands. And your, &c. that J. L. and F. B. Defendants, hereinafter named, who carry on a copartnership together, as music sellers, under the name, stile, and firm of, &c. have, without the consent of your Orator, caused the said overture or symphony to be set for the harpsichord, and then to be engraved and printed; and have also caused the said works or books, called, &c. or some part or parts thereof, to be engraved or imported, or knowing the same to have been so engraved or imported, without the consent of your Orator, have published, exposed to sale, and sold, or caused to be published, and exposed to sale, many copies of the said overture, so set for the harpsichord, and of the said, &c. or of some part or parts thereof, and to conceal their said piracy, they sent the plates on which the said music, or some part or parts thereof, was or were engraved, beyond sea, and caused the same to be printed there on foreign paper, and then imported the same; and the said J. L. &c. have also in their possession or power, a number of copies of the said overture or symphony so set, and of each of the said works, &c. or of some part or parts thereof, which they know to have been printed or imported without the consent of your Orator, and which they threaten to publish, expose to sale, and sell. And your, &c. that having purchased the copyright in the said overture or symphony, and in the said works, &c. of the said J. H. the author and composer thereof, your Orator has a right to all the benefit to be derived from the ownership or property thereof, for the term of years from the day of the first publication of the same respectively; and that, having such right, and the said J. L. &c. having, as aforesaid, already infringed, and threatening hereafter to infringe the same, your Orator hath, by himself and his agents, frequently

frequently applied to them to account with your Orator for the sums received by them, or either of them, or for their, or either of their use, as the price of the copies which they wrongfully, in manner hereinbefore mentioned, have published, exposed to sale, and sold, and also to refrain hereafter from publishing, exposing to sale, or selling any copy or copies of the said works, or either of them, or any part or parts thereof, printed or imported, without the consent of your Orator, until your Orator's interest in the said copy-right shall expire, with which just and reasonable requests, &c. But now, &c. pretend that your Orator never purchased the said original overture, and books or works from the said J. H. *Charge contrary*, that he did purchase the same from the said J. H. and paid to him the consideration agreed upon between them, and so they will admit; but then they pretend that they have not caused the said overture or symphony to be set for the, &c. and have not published, exposed to sale, or sold any copy or copies of the said, &c. or of any part or parts of them, or either of them, which hath or have been printed or imported without the consent of your Orator, in writing, signed in the presence, &c. *Charges contrary*. And that they, or one of them, have or hath printed, or caused to be printed and imported, or caused to be imported, without the consent of your Orator, many copies of the said overture, and of the said books or works, and also of some part or parts thereof, great numbers of which they have published, exposed to sale, and sold, and which they threaten to continue to publish, expose to sale, and sell. And your Orator further charges, that the said J. L. &c. are considerable dealers in music, and that they, or one of them, keep, or choose to be kept, some book or books of account or accounts, in which they, or one of them, usually enter, or cause to be entered, the articles which they sell and dispose of in the way of their trade; and particularly, your Orator charges, that the said confederates, or one of them, made, or caused to be made, some entry or entries in some book or books of the said operas or works of the said overture or symphony, so set for the, &c. which have been sold or disposed of by them, or one of them, or upon their, or one of their accounts; and the said confederates, or one of them, or some other person or persons, to their, or one of their use, or with their or one of their privity, now have or hath, or lately had the said book or books, entry or entries, or some of them, or some copy or copies of them, or some of them, in his or their custody, possession, or power, or the said confederates, or one of them, or some other person or persons, by their or one of their order, or with their or one of their privity, hath or have lately destroyed the said book or books, or at least the said entry or entries. And your Orator charges, that the said confederates know or suspect, or have some reason to know or suspect, what number of the said operas, and of the said symphony or overture respectively, they caused to be thrown off and printed; and they or one of them, or some other person or persons for their, or one of their use, or with their or one of their privity, have or hath, in his or one of their possession, custody or power, or lately had, some receipt or receipts, account or accounts, entry or entries, writing or writings, relating to the printing of the said operas and the said overture or symphony, and to the number of the same that was thrown off or printed; and the said confederates, or one of them, know or knows, or can set forth either

as to their or his knowledge, information or belief, how many copies of the same remain undisposed of, and so the said confederates will sometimes admit, but then they pretend the selling of the said overtures for the, &c. was not a piracy of the same, but your Orator charges the contrary. All which, &c. (*interrogate to each fact.*)

Inquiry.

And that they may set forth a full, true, and exact account of all and singular the copy or copies of the said overture or symphony set for, &c. (*as in the body of the bill,*) and whether the said confederates, or one and which of them, or any and what other person or persons by name, for their, or one and which of their use, or with their, or one and which of their privity, now have or hath, or lately had the said book or books, entry or entries, or any and which of them, or any and what copy or copies of them, or any and which of them, in his or their, and which of their custody, possession, or power. And that the said confederates may set forth, in the very words and figures thereof, all and singular the said entry or entries, account or accounts, and may also leave the said book or books in the hands of their clerk in Court, for the inspection and perusal of your Orator or his agents; and whether the said confederates, or either and which of them, or any and what other person or persons by name, by their, or one and which of their order, or with their, or one and which of their privity, hath not, or have not lately destroyed the said book or books, or at least the said entry or entries, and if not, what is become of the same; and whether the said confederates, or one and which of them, do or doth not know or suspect, or have or hath not any and what reasons to know or suspect, what number of the said operas, and of the said symphony or overture respectively, they caused to be thrown off and printed, and how many of the same respectively they originally caused to be thrown off and printed, and whether they, or one and which of them, or any and what other person or persons by name, for their, or one and which of their use, or with their, or one and which of their privity, have not or hath not, in his or their possession, custody, or power, or lately had, any and what receipt or receipts, account or accounts, entry or entries, writing or writings, relating to the printing of the said, &c. and to the number of the same that was thrown off and printed, and that they may set forth the same in the very words and figures thereof; and may also leave the same in the hands of their clerk in court for the inspection and perusal of your Orator or his agents, and whether the said confederates, or one and which of them, do or doth not know or can set forth, either as to their knowledge, information, or belief, how many copies of the same remain undisposed of, and how many of the same respectively they the said confederates, or either of them, have or hath upon hand; and that the said Defendants may leave in the hands of their clerk in Court, for the inspection of your Orator or his agents, a copy of the said overture or symphony so set, &c. and a copy of each of the said, &c. or any part or parts of either of the said compositions which they, or either of them, have or hath so sold or caused to be sold.

Prayer.

Prayer.

And that an account may be taken, under the direction of this honorable Court, of all the sum and sums of money come to the hands of the said Defendants, or either of them, or of any other person or persons, for their or either of their use, as the price or consideration of the said overture or symphony so set, &c. and of the said books or works, or either of them, or of any part or parts of them, or any of them. And that the said Defendants may be decreed to pay the same to your Orator, and that they and each of their agents may be restrained by an injunction, issuing out of and under the seal of this honorable Court, from printing, engraving, or importing, and also from publishing, exposing to sale, or selling, any copy or copies of the overture or symphony so set, &c. and of the said books or works, or any of them, or of any part or parts of them, or any of them, which have been, or shall be printed, engraved, or imported without the consent of your Orator, obtained according to law, until your Orator's aforesaid interest shall expire. And for further relief.

SECT. XXI.—BILLS OF INTERPLEADER.

A **BILL** of Interpleader is where the person exhibiting the Bill claims no right in opposition to the rights claimed by the persons against whom the Bill is exhibited, but prays the decree of the Court touching the rights of those persons, for the safety of the person exhibiting the Bill. *Mit.* 32.

But that which is commonly called a Bill of Interpleader, is that which is exhibited by a third person, who, not knowing to whom he ought of right to render a debt or duty, or pay his rent, fears he may be hurt by some of the claimants, and therefore prays that they may interplead, so that the Court may judge to whom the thing belongs, and he be thereby rendered safe on the payment: as where two parties are pretending title at one and the same time to an estate, and are harassing and suing the tenants for non-payment of rent.

To this Bill the Plaintiff must annex an affidavit that he does not exhibit it by fraud or collusion with all, or either of the Defendants, or of any other person or persons, but only to be indemnified, and to pay his rent or debt safely, to such person to whom the Court shall order or adjudge the same to belong.

The Plaintiff who brings a Bill of Interpleader commonly offers by his Bill to pay the money or rent into Court, for the benefit of such party to whom the Court shall adjudge the same to belong: and in case he does not make such offer, the Court, upon application of either of the

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the Defendants, will order such Plaintiff to pay the money or rent into Court, or the bank of England, for the benefit of such party to whom the Court, at the hearing of that cause, shall decree the same.

An interpleading Bill is exactly upon the footing of an injunction to stay waste, and may be supported by affidavit of material facts. *2 Ves. jun.* 101.

It must appear by the Bill that there is some person capable of interpleading, and it must shew that there is such a person in *rerum natura* as can interplead. It must also shew that each of the Defendants whom it seeks to compel to interplead, claims a right, otherwise both the Defendants may demur: the one, because the Plaintiff shews no claim of right in him; the other, because the Bill shewing no claim of right in the Co-defendant, shews no cause of interpleader. If the Plaintiff shews no right to compel the Defendants to interplead, whatever rights they may claim each Defendant may demur. *Mqd. vol. i. p. 145.*

Bill of Interpleader by Tenant for Payment of Rents of leased Premises, with Affidavit annexed.

Humbly complaining, sheweth unto your Lordship, your Orator A. B. of, &c. that your Orator was, in and before the month of , which was in the year, &c. tenant in possession of an undivided moiety or half part of, &c. at and under the yearly rent of £ , thereupon payable for the same, and which had been theretofore granted, together with the other moiety thereof, to him by indenture of lease, bearing date, &c. by one C. D. then of, &c. and who hath long since departed this life, for a term of years, months, and days, which expired long since; and your Orator continued in the possession thereof, and there then became and was due from your Orator the sum of £ as for years rent of the said premises, at and after the rate of £ per annum, out of which your Orator claims, and is entitled to, an allowance of the sum of £ for taxes and other outgoings paid by him in respect of the said moiety of the said premises during the time aforesaid, and which sum of £ being deducted from the said sum of £ , leaves a clear balance of the sum of £ now due therefrom, and to be paid by your Orator to the person or persons entitled to receive the rents and profits of the said moiety of the said premises. And your, &c. that your Orator hath always been ready and willing, and now is ready and willing, and hereby offers to pay the said sum of £ , in such manner, and to such person or persons as this honorable Court shall please to direct. And your Orators would have long since paid the said rent and the arrears thereof, had there been any person or persons to whom he could have safely paid the same. But now, &c. Defendants severally set up claims to the said one undivided moiety of the premises, and to the rents and profits thereof, and each of them the said confederates do severally and distinctly insist on some right and title to the rents, or arrears of rents, now due and owing from your Orator, for and in respect of the said one undivided moiety of the said premises, or some part or parts thereof, and have and do demand the payment thereof, or of some part or parts thereof, from your Orator, and threaten to commence and bring several actions at law against your Orator for the recovery thereof, and otherwise to vex and harass your Orator concerning the same. All which actings, doings, and pretences of the said confederates are contrary to equity and good conscience, and tend to the manifest wrong and injury of your Orator in the premises. In consideration whereof, and forasmuch as your Orator is remediless in the premises by the strict rules of the common law, and can only be relievable in a court of equity, where matters of this nature are properly cognizable and relievable, &c. where your Orator may compel the said claimants to interplead, and settle and adjust their rights and demands between themselves, so that your Orator may be enabled to pay the said rent and arrears of rent with safety. To the end, &c.

Prayer.

And that they may severally set forth and discover what right or title they and each of them claim or have, in or to the said moiety of the
the

the said premises, and how they and each of them derive and make out the same. And that they may set forth to which of them the said rent and arrears of rent doth, or do of right belong, or is or are payable, or ought to be paid, and may interplead, and settle, and adjust their said demands between themselves, your Orator being ready and willing, and hereby offering to pay the said rent, and arrears of rent, to such of the said confederates to whom the same shall appear of right to belong, being indemnified. And that your Orator may be at liberty to bring the same into this honorable Court, which your Orator doth hereby offer to do, for the benefit of such of the several parties who shall appear to be entitled thereto. And that the said several Defendants, and each and every of them, may be restrained by the injunction of this honorable Court, from all proceedings at law against your Orator for the said rent and arrears of rent. And for further relief, &c.

T. N.

The usual affidavit against collusion as follows :—

Between A. B. Plaintiff,
and

E. F. . . . Defendant.

A. B. the above-named Plaintiff, maketh oath and saith, that he doth not in any respect collude with any or either of the Defendants above-named, touching the matters in question in this cause, nor is he in any manner indemnified by any or either of the Defendants, nor doth he exhibit his bill at the request, or with the knowledge of any or either of them, but merely of his own free will, and to avoid being sued or molested touching the matters contained in his said bill.

Sworn, &c. &c.

Bill of Interpleader by a Lessee of Tithes against Rector and others, to whom the same had been assigned, to ascertain the proper Parties, and Injunction.

States, that on or about the _____ Plaintiff entered into an agreement in writing with Defendant J. rector of the parish of S. in the county of E. to take the tithes of corn, grain, herbage, wool, and lambs, yearly, arising and growing in said parish of S. together with the pew in the chancel of the church, and all profit, of what kind soever, belonging to said rectory of said parish (the parsonage house, cottage, glebe lands, and all other out-buildings thereunto belonging, only excepted), for the term of six years from Michaelmas day, then last, and paying the sum of £_____, clear of land-tax and all deductions, to be paid in manner following, viz. £_____ at Lady-day, and £_____ at Michaelmas day in every year, for said term of six years, the first payment thereof to commence at Lady-day.

That in pursuance of said agreement, Plaintiff entered into the possession or receipt of the said tithes, and from time to time paid the said annual rent to Defendant J. till the year _____, when he was informed by _____

by Defendant J. that he had disposed of his interest in the said tithes, so long as he should continue rector of said parish, to Defendant, E. K. and had given him a power of attorney to receive said rent from Plaintiff, and that Plaintiff was to pay Defendant K. the rent due at the Michaelmas preceding, and all future rent to grow due from Plaintiff in respect of said tithes:

That Plaintiff duly paid said rent to Defendant K. until the expiration of said term of years, and hath since the expiration of said term hitherto continued in the possession of said tithes, as yearly tenant thereof, at said rent of £

That soon after the expiration of said term of years, Defendant K. informed Plaintiff that he had given said tithes to his son the rev. W. W. K., and that Plaintiff was in future to pay said rent to him; and Plaintiff accordingly from thence until the death of said W. W. K., which happened in or about the year , paid said rent to said W. W. K., and from and after the decease of said W. W. K. Plaintiff paid said rent to H. K. his brother, and who claimed to be entitled thereto, and also produced to Plaintiff a letter of attorney from Defendant K., authorizing him said H. K. to receive said rent from Plaintiff.

That in or about , Plaintiff received a letter from a Mr. W., as solicitor to Defendant A., stating that said H. K. had, by two several indentures, dated respectively the, &c., granted, bargained, sold, and confirmed, unto Defendant A. two several annuities of £ each, during the lives of him said H. K. and Defendant K., to be issuing, payable out of, and chargeable upon said tithes, amongst other premises therein mentioned, and further stating, that the last half year's annuity which became due had not been paid by said H. K., and requiring Plaintiff therefore to pay Defendant A. the rent due from him for said tithes.

That Plaintiff, in consequence of such letter, did, on or about , pay Defendant A. the rent of said tithes which accrued due between Michaelmas and Michaelmas .

That in or about Plaintiff received a letter from Defendant K. claiming to be entitled to said tithes and the rent thereof, but Defendant A. still insisting upon his right to receive said rent from Plaintiff, and Plaintiff being advised that he could not with safety pay his rent either to Defendant K. or to any other person until it was clearly ascertained to whom it belonged, Plaintiff declined to make any payment to Defendant K.

That in then last, Defendant K. commenced an action at law against Plaintiff, to recover from him what was due for rent of said tithes, but Plaintiff's attorney having procured a judge's order, that Defendant K.'s attorney should deliver to Plaintiff's attorney a statement of Defendant K.'s place of abode, and that the proceedings should in the mean time be stayed, such order has never been complied with, and said action has been discontinued.

That Defendant J. the rector of said parish of S. now also claims to be entitled to receive said rent from Plaintiff, and hath lately commenced an action against Plaintiff in the Court of King's Bench for recovery of said rent, which is still depending, and said Defendant intends to prosecute same.

That

That on or about Plaintiff received a notice in writing; signed by Defendant T. P., as follows: "Sir, This is to request," &c. (to pay tithes to him, same having been assigned to him by deed.

That Plaintiff hath been informed that the deed referred to in said notice, and under which Defendant P. claims to be entitled to receive the rent of said tithes from Plaintiff, was executed by said H. K. subsequent to the grant of the aforesaid annuity to Defendant A.

That there is now due from Plaintiff years rent of said tithes, from Michaelmas , making in the whole the sum of £ , and Plaintiff is, and at all times has been, ready and willing to pay the same, to whomsoever shall appear to be entitled thereto, but by reason that all the Defendants persist in the several adverse claims before mentioned, and threaten and intend to proceed at law against Plaintiff for the recovery of said rent, Plaintiff is advised that he cannot with safety pay the same to any of the Defendants, but that they ought to interplead together touching their right to said rent, in order that Plaintiff may know to whom same ought to be paid, and that Defendants ought in like manner to be restrained, by the order and injunction of the Court, from prosecuting, proceeding in, or commencing any action or actions at law against Plaintiff, for or in respect of the matters aforesaid. To the end, &c.

Prayer.

And that the Defendants may answer the premises. And that they may be decreed to interplead together, and that it may be ascertained, in such manner as the Court shall direct, to which of them the rent of said tithes doth belong and ought to be paid. And that Plaintiff may be at liberty to pay the rent now due, and to grow due from him for and in respect of said tithes, into Court, which he offers to do, for the benefit of such of the said parties as shall appear to be entitled thereto. And that Defendants may in the mean time be restrained from proceeding in prosecuting or commencing any action or actions at law against Plaintiff, in respect of the matters aforesaid. And for further relief, &c.

J. L.

Affidavit annexed to Bill of Interpleader.

In Chancery.

Between, &c.

The said J. C. maketh oath and saith, that he has exhibited his bill of interpleader against the Defendants in this cause without any fraud or collusion between him and the said Defendants, or any or either of them; and that he the Plaintiff hath not exhibited his said bill at the request of the said Defendants, or of any or either of them, and that the said Plaintiff is not indemnified by the said Defendants, or by any or either of them, and saith, that he has exhibited his said bill with no other intent but to avoid being sued or molested by the said Defendants, who are proceeding, or threaten to proceed at law against the Plaintiff for the recovery of the rent of the said tithes in the said bill mentioned.

Bill

Bill of Interpleader by a Tenant, whose Goods had been distrained by one of two Tenants in Common, for the whole Rent due after he had Notice from the other Tenant in Common not to pay his Rent to the Person distraining.

That R. A. late of, &c. deceased, was in his life-time seized in fee-simple, or some other good estate of inheritance, of or in the messuage or tenement, ground and hereditaments hereinafter mentioned, and being so seized and entitled, he did, by indenture bearing date, &c. and made between the said R. A. of the one part, and T. D. of the other part, for and in consideration, &c. (demised said premises for years, at the yearly rent of £ .)

That the said T. D. from the date of the said indenture of lease, held and enjoyed the said ground, messuage, or tenement and premises, until about , when he quitted the business of a baker, and let part thereof to R. L. a baker, and the other part thereof to some other person, as tenants to him the said T. D.

That the said T. D. departed this life on or about, &c. having first duly made and published his last will and testament in writing, bearing date on or about, &c. and thereby, (amongst other freehold and copyhold estates,) gave and devised to your Orator, &c. (gave said premises upon certain trusts therein expressed, and appointed his wife M. D. and Oratrix joint executrixes.)

That the said executrixes, shortly after the said T. D.'s death, duly proved the said will in the Prerogative Court of the archbishop of C. and the said M. D. is since dead, whereby your Oratrix became and is now entitled to the said ground, messuages, or tenements and premises, for the remainder of the said term of years, if she should so long live. And the said ground, messuages, or tenements and premises, are now let, one part thereof to the said R. L., and the other part thereof to E. S. as tenants thereof under Orator and Oratrix.

That the said R. A. is also dead, having before his death duly made and published his last will and testament in writing, and thereby bequeathed to his heirs, whom he took to be E. H. of, &c. and E. D. of, &c. and to their heirs, all his real estate, lands and houses, situate, &c. subject to such charges and incumbrances as should be affecting the same at the time of his death, and subject to an annuity of £ per annum to his three sisters in law, A., B., and C., for their lives, and the life of the survivor of them.

That from the decease of the said R. A. one H. H., for and on the behalf of the said E. H. and E. D., received of the said T. D. and M. his wife during their respective lives, and after both their deaths, received of Orator and Oratrix the rent of the said ground, &c. up to the of , from which time or thereabouts, the said H. H. was put out from receiving the said rents, and no person or persons ever applied to Plaintiffs, or either of them, for any rent for the said ground, messuages, &c. nor did Plaintiffs or either of them know who to pay the said till since Midsummer-day , when one J. T. of, &c. applied to Plaintiffs for, and demanded the arrears of rent on the behalf, as he pretended,

pretended, of the said E. H. and E. D. though he never produced to Plaintiffs, or either of them, any authority from the said E. H. and E. D. or either of them, for the same; and about the same time Plaintiffs were applied to on the behalf of the said E. D. and requested not to pay any rent to the said E. H. but to pay the same to the said E. D. for that the said E. H. had not properly accounted with and paid the said E. D. her part of the rents that had been before received by the said E. H. and by him paid into the hands of the said E. H. and therefore Plaintiffs could not judge or determine to whom they could securely pay the arrears of rent due for the said premises. But Plaintiffs shew, that in order to find out under what right or title the said E. H. and E. D. claimed title to the said premises, and to the said arrears of rent due for the same, your Orator searched the registry of the Prerogative Court of the archbishop of C. for, and there found and received the will of the said R. A. deceased, to the effect hereinbefore set forth, and thereupon Orator went to the house of the said E. H. in order to speak with him respecting the same, but not finding the said E. H. at home, Orator, on or about, &c. wrote a letter to the said E. H. to the following effect, &c. (*stating that he had read the will, and offering to pay a moiety of rent to E. H. he being entitled to no more.*)

That the said E. H. never gave Plaintiffs, or either of them, any answer to the said letter, and on or about, &c. the said J. T. notwithstanding such offer of payment of the said E. H.'s moiety of the said rent to him, the said E. H. entered upon the said ground, &c. so occupied by the said R. L. and E. S. as tenants to Plaintiffs as aforesaid, and distrained their goods for the whole of the said arrears of rent, and gave notice in writing to the effect following; that is to say, that he had, as authorized from E. H. distrained for two years and three quarters rent, and that unless paid within five days, goods would be sold.

That immediately upon such distresses being made, and Plaintiffs not thinking it safe or secure for them to pay the whole of the said arrears of rent to the said E. H. after having received notice from the agent of the said E. D. not to pay the said arrears of rent to him the said E. H. and Plaintiffs, being apprehensive if they did, they would be liable to pay the same again, and therefore, in order to gain time to be properly advised how to act with safety, Plaintiffs caused the said goods and chattels of the said R. L. and E. S. so distrained for the said arrears of rent, to be replevied, and entered plaints in replevin, in the Consistory Court of the Sheriff of Middlesex, and have since caused writs of *recordari facias loquelam*, to be brought, returnable the first return of Michaelmas term, and removed the said plaints into his Majesty's Court of King's Bench.

That Plaintiffs are not able to determine how or in what manner they can, with safety and security, pay the said arrears of rent, because, on the one hand, the said J. T. who has subscribed his name to the said notices, as duly authorized by the said E. H. only, and which said E. H. according to the will of the said N. A. is entitled to only one half part thereof, has made a distress for the whole arrears of such rent, as due to the said G. H.; and, on the other hand, the said E. D. who is, by the said will, entitled to the other moiety of the said arrears of rent, insists, that Plaintiffs shall not pay the said rent to the said E. H. All which, &c.; and forasmuch

forasmuch as Plaintiffs are remediless in the premises, without the aid of a court of equity, where the said several claimants may interplead, and settle and adjust their several rights, claims, and demands, between themselves, so that Plaintiffs may be enabled to pay the said rent, and arrears of rent, with safety. To the end, &c.

Prayer.

And that the said confederates may set forth to which of them the said arrears of rent belong, and by what right or title they respectively claim the same; and that they may interplead and settle and adjust their said demands between themselves, Plaintiffs being ready and willing to pay the said arrears of rent, or such part thereof as this honorable Court shall adjudge or think Plaintiffs liable to pay, after deducting the land tax, and other things, as are charged thereon, for the landlord to pay, to the person or persons to whom the same shall appear of right to belong, being indemnified, and in the mean time, to bring the same into this honorable Court, for the benefit of such of the parties as shall appear to be entitled, as this honorable Court shall direct; and that said Defendants may be restrained from proceeding at law against Plaintiffs, and also against Plaintiffs tenants, for the said rents; and for further relief.

R. B.

In the Exchequer,

Between W. S. and M. his wife, . . . Plaintiffs,
and

E. H. E. D. and J. T.. . . Defendants.

The Plaintiffs, W. S. and M. his wife, severally make oath, and say, that they have exhibited their bill of interpleader against the Defendants in this cause, without any fraud or collusion between them and the said Defendants, or any or either of them; and that they the Plaintiffs, nor either of them, have not exhibited their said bill at the request of the said Defendants, or of any or either of them; and that the said Plaintiffs, or either of them, are not indemnified by the said Defendants, or by any or either of them; and severally say, that they have exhibited their said bill with no other intent but to avoid being sued or molested by the said Defendants, who are proceeding, or threaten to proceed at law against the Plaintiffs, for recovery of the rent of the ground, messuage, or tenement and premises, in the said bill mentioned.

W. S. { Sworn at Newington, this 4th
M. S. { Nov. 1773, before me, G. P.

Bill of Interpleader by Executors, whose Testator was possessed of certain Trust Monies, and for which a Bill in Equity had been filed by the Heir at Law of Cestuique Trust, and an Action at Law brought by the Husband.

States, that J. J. father of sir H. J. by his will, dated, &c. *inter al.* gave, &c. (to his three daughters, E. F. and A. £ each, if they married,

married, who could settle £ yearly, and £ to those who did not, gave residue to his son H. his executor.)

That testator, without altering his will, died, and the son H. proved, &c.

That the said E. who was testator's eldest daughter, having continued for many years single, and her portion being uncertain, and not payable till her marriage, the same therefore remained in her brother's hands, as residuary legatee and executor of his father.

That the said E. about, &c. intermarried with Defendant D. but, he not being seized or entitled in lands of the yearly value of £ as required by the will, she, by the said will, became entitled to £ portion, but the said E. having by articles made previous to her marriage, reserved and settled her said portion of £ , with the rest of her fortune to her own sole and separate use, with power of disposing thereof, notwithstanding her coverture to such separate use or uses, the said legacy of £ was continued in the hands of the said sir H. J. the son, and executor, at interest.

That the said E. having, in or about, &c. entered into a contract for the purchase of certain freehold lands, the said sir H. paid her £ to complete the said purchase, with all interest then due for said £ , so that there remained £ , part of the said £ , in the hands of the said sir H. ; and so it appears, in an account thereof in the books of the said sir H. which was settled and signed by them respectively on, &c. ; and the said £ , having been continued in the hands of the said sir H. as the trustee as aforesaid, he, from time to time, duly paid the interest for the same to her, for her separate use, until her death, after mentioned. And the said sir H. on, &c. borrowed of his said sister £ on his promissory note, which he gave to her in her own name, for securing the same, with interest, at 4 per cent. But the said Defendant alleges, that the same belonged to him, and was not part of the separate property of his, notwithstanding the note was given to her.

That on or about, &c. the said E. having in her hands £ , part of her separate property, desired the said sir H. to take the same at interest, and on or about, &c. paid to him £ on the trusts aforesaid, whereby the principal money in his hands was £ , the interest whereof was paid to her till the time of her death.

That the said E. died on or about, &c. leaving the said £ , trust monies, in the hands of the said sir H. as well as the said £ ; and the said Defendant D. after the death of his wife, pretending to the said sir H. ; that he was, by virtue of the will of the said E. or some instrument or appointment, which he alleged had been duly executed by her, in pursuance of a power reserved to her in her marriage settlement, entitled as her executor, or as a trustee named in such instrument, to the said £ , and also entitled to the said £ , in his own right ; and said sir H. believing the same to be true, without examining into such the said D.'s right, actually paid the said Defendant the several sums at the respective times after mentioned (that is to say), &c. by which means there only remained in his hands £ trust money, and for securing the said £ trust-money remaining in his hands, he gave to said Defendant a promissory note for the payment thereof, and interest, but sir H. declining greatly in his health, the said Defendant, on that account, was desirous that the said sir H. should give him a bond for the better securing the

the said trust-money remaining in his hands; to which the said sir H. consented, and on, &c. executed his bond accordingly, all interest having been paid up to that time, and the said defendant delivered up the said note for £ .

That sir H. died on, &c. made will, &c. and appointed Plaintiffs executors, who proved, &c.

That as said bond was given to said Defendant D. and Plaintiffs had not any notice or knowledge of any trust concerning the same, Plaintiffs, at the request of said Defendant, paid him the interest of £ down to Michaelmas last, and would have continued to have paid him the same. But Defendant S. T. as the eldest brother and heir at law of said E. hath lately, not only expressly forbid Plaintiffs paying any further interest thereon, but hath exhibited his bill in this Court against Plaintiffs as executors of the said sir H. thereby setting forth that the said legacy of £ with the rest of the fortune of the said E. by certain articles, &c. and thereby praying, that the said £ and interest, the remainder of the said trust money so due on sir H.'s bond, ought to be laid out in such purchase as directed by aforesaid articles, or paid to him as heir at law, to his sister, and be paid to him accordingly out of the assets of sir H. And the said D. insists on the payment of the said £ and interest so secured by the said bond, and that he is entitled thereto in his own right, and not upon any trusts whatever. And Plaintiffs being willing and desirous to pay off said bond by and out of the assets of the said Testator, gave notice of the said claim and proceedings to the said Defendant D. and requested the said T. and D. respectively either to settle their respective claims and disputes between themselves, and agree and consent to the payment of the said £ and interest, to one of them, out of the assets of the said sir H. or to permit Plaintiffs to pay the same into the bank of England, or to invest the same in government securities until such claims were determined. And Plaintiffs hoped in the mean time, that they would not have been sued or molested by the said Defendants T. and D. or either of them upon, or concerning trust money or bond. But Defendants refuse either to adjust the said claims between themselves, as they ought, and in order to harass Plaintiffs, Defendant D. hath lately brought an action in the Common Pleas against Plaintiffs and said S. T. to recover the said £ and interest out of the assets of the said sir H. and to give some colour thereto, the said D.

Pretends, that the fortune of said E. or any part thereof, was not by articles made previous to their marriage settled to be laid out in lands to such uses as aforesaid, but that she the said E. had power by her will, or any writing purporting to be her will, to give, limit, and appoint, as well the said portion in such manner as she should think fit, and that she by virtue of such power, by her last will as she alledges, duly executed in the manner prescribed in the said settlement, appointed her whole to him, or otherwise gave him the interest and produce thereof for his life, and some other share or interest therein, with power to dispose thereof, and that he, under the said will, has a right to recover and receive the money due on the said bond, and that the said S. T. hath not any right to the said £ or the interest thereof. But said Defendant D. refuses to produce to Plaintiffs the said marriage articles or will, to shew how he makes out his claim thereto, under a pretence that the said bond is made absolutely

lutely to him. And threatens, that if Plaintiffs pay said £ that he will compel them to pay the same again.

Charge, that they are ready and have offered to lay out the said £ and interest so due on the said bond, in such government or other security, as said D. and T. shall agree upon, or to lay the said £ and interest, in case they would determine their respective claims, and not perplex Plaintiffs who have no interest in the matters in question. Nevertheless, they severally insist on proceeding in the said action and suit against Plaintiffs, although they well know that Plaintiffs cannot with safety pay the said £ and interest, to either of them. And Defendant W. the surviving Trustee, under the settlement or some assignment, pretends, that he is entitled to receive the said £ and interest, but for whose use or benefit he refuses to discover. To the end, &c.

Prayer.

That the rights and claims of the Defendants of, in, and to the said £ and interest, may be settled and determined by the decree of this honorable Court. And that Plaintiffs may be at liberty to pay the said £ and interest, from Michaelmas day last, into the bank, in the name of the Accountant-General, subject to the order of the Court, which Plaintiffs are ready and willing, and hereby offer to pay accordingly. And that Defendants may be interpleading among themselves, according to law and equity determine their respective claims to the said £ and interest, and for an injunction against said Defendant D. and upon such payment being so made by Plaintiffs, that said Defendant D. may deliver up to them the said bond to be cancelled. And for further relief.

Bill of Interpleader by Tenants against Executors, under a Will, and Trustees under a Deed, and against an Infant Tenant in Tail, the Trustees claiming an Apportionment of the Rent to the Death of Tenant for Life, and the Executors claiming the whole half-year's Rent for the Infant Tenant in Tail, and an Injunction to restrain them from proceeding at Law.

States, that T. B. late of, &c. deceased, did, when he was of sound and disposing mind, memory and understanding, duly make and publish his last will and testament, bearing date, &c. which was executed and attested in such manner and form, as by law is required, for passing real estates, whereby (amongst other things) he gave and devised, &c. (all his manors and messuages, &c. to lord M. and J. M. two of the Defendants, subject to certain annuities in trust for J. B. since deceased, for life, *sans waste*, remainder to his first and other sons in tail male, &c. a power to the person who should be in possession, under hand and seal, to lease, &c. and appointed them executors) as in and by, &c.

That

That part of the residue of the said Testator's personal estate, consisted of the sum of £ , lent by way of mortgage on the security of certain estates and premises, situate, &c. and that the mortgagor of the said mortgaged premises, having left the kingdom, ejectments were brought against the tenants of the said mortgaged premises, by the said Testator T. B. and possession thereof was recovered by him.

That sometime after making the said will, the said Testator departed this life without altering or revoking such will, leaving the said J. B. him surviving, and he the said I. B. thereupon, under and by virtue of the said will, which hath since been established under a decree of this Court against the Testator's heir at law, entered into the possession and receipt of the said manor, hereditaments and premises thereby devised, and also of the said mortgaged premises. But the said J. B. being some time afterwards much involved in debt, and being desirous of making a provision for the payment of such debts, did, by certain indentures of lease and release, bearing date, &c. duly convey all his estate and interest in the said premises, &c. and in the said mortgaged premises unto, &c. &c. (*State deeds shortly.*) (To W. L. and T. two other Defendants, for the term of years, if he should so long live, upon trust to lease, &c. and manage estates, and allowing an annuity of £ to J. B. and surplus for his creditors) as in and by, &c.

That the said I. B. departed this life on or about, &c. having duly made his will, and appointed G. D. another Defendant, with certain other persons, executors thereof, but the said G. D. alone proved the same, and acted in the execution thereof, and the said J. B. left J. B. another Defendant, an infant under the age of 21 years, his eldest son him surviving, who thereupon became, and now is the first tenant in tail of the said manors, lands, and hereditaments, and also of the said mortgaged estates and premises, under and by virtue of the limitations contained in the said will of the said T. B. and the said J. B. being an infant possession of the several estates and premises was taken by the said trustees named in the will of the said T. B. on his behalf, and a receiver hath been since appointed thereof, under an order made in a cause instituted, for that, amongst other purposes, by the said J. B. the infant, by his next friend.

That the whole of the said manors, &c. together with the said mortgaged premises, were let or demised by the said J. B. now deceased, under parol or verbal agreement, in different parts and parcels, and at and under different yearly rents to Plaintiffs as tenants thereof respectively, from year to year, and the several rents reserved and made payable by Plaintiffs for the said lands and hereditaments in their respective occupations, were paid and payable half-yearly at Lady-day and Michaelmas-day in each year, but no regular leases or demises in writing, were made or executed by the said J. B. of any part of the said estates and premises.

That the said G. earl of M. and J. M. the trustees under the will of the said Testator T. B. claim to be entitled on behalf of the said J. B. the infant, or the said J. B. the infant, in his own right, claims to be entitled to the half-year's rent for the said manors, &c. and also the said mortgaged premises accruing due from the last rent day of payment preceding the death of the said J. B. and which became due and payable at Lady-day next, following the decease of the said J. B. And on the other

other hand, the said W. L. and T. G. as the trustees under the said indentures of lease and release, bearing date, &c. and the said G. D. as the only acting executor and personal representative of the said J. B. deceased, insist, that as the said J. B. the tenant for life of the said manors, &c. did not in his life-time execute the power given to him by the will of the said T. B. as aforesaid, by making or executing regular leases and demises of the said estates and premises, but continued to the time of his death to let the said manors, &c. and also the said mortgaged premises to Plaintiffs respectively, by parol agreement, only Plaintiffs were merely tenants at will, or from year to year, and that their right to continue in possession of the estates and premises in their respective occupations, ceased or determined, upon the death of the said J. B. and that therefore, the growing or current half-year's rent at the time of his the said J. B.'s death, did not wholly belong to the said trustees, on behalf of the said J. B. the infant, or to the said J. B. the infant as the next remainder-man, entitled to the possession of the said estates and premises under the said will, but that the current half-year's rent which was growing or accruing due in the life-time of the said J. B. from and after the last rent day preceding his death, ought to be apportioned, and that so much thereof as accrued due in his life-time ought to be considered as part of the personal estate of the said J. B. and as belonging to them, the last-named parties, or some, or one of them, and that so much thereof as accrued due only after the said J. B.'s death, belonging to the said J. B. the infant, as such remainder-man.

That the amount of the said half-yearly rent which became due at Lady-day next following the death of the said J. B. as aforesaid, was due from Plaintiffs in the following particulars, that is to say, the sum of £ from the Plaintiff J. B. the sum of £ from the Plaintiff J. S. &c. &c. (*setting each out.*) And the Plaintiffs being desirous of paying their said rents to such of the said parties as should be justly entitled to receive the same, were in hopes, that they should not have been harassed with any legal proceedings, in order to compel the payment of such rents, and that the said parties would have settled their disputes among themselves, as in justice and equity, they ought to have done.

Charge, that the said W. L. and T. G. the trustees under the said indentures of lease and release, bearing date, &c. have lately commenced actions at law against the Plaintiffs T. K. &c. the tenants of the said mortgaged premises, and they threaten and intend to bring actions against the rest of the Plaintiffs, as tenants of all the other estates and premises, in order to compel the payment of the rents so accrued due as aforesaid. And the said G. earl of M. and J. M. the trustees named in the said will of the said T. B. and the said J. B. the infant, threaten to bring actions at law against all the Plaintiffs in the name of the said J. B. the infant, in order to compel the Plaintiffs to pay the said rents to them. And the said G. D. also claims the said rents, as the executor and personal representative of the said J. B. deceased. And Plaintiffs, by reason of the said opposite claims, are unable to ascertain with certainty to which of the said parties the said rents do justly and of right belong. And as the Plaintiffs are ready and willing to pay the same to which ever of the said parties the same shall be found of right to belong, the Plaintiffs insist that the said several parties ought to interplead and be restrained from proceeding at law against the Plaintiffs.

Prayer.

That the said Defendants may interplead and settle their rights to the rents so accrued due as aforesaid, under the direction of this honorable court, Plaintiffs being ready and willing to pay the said rents to either of the said parties to whom the same shall appear of right to belong. And Plaintiffs hereby offering to bring the same into this honorable Court, for the benefit of such of the said parties as shall appear entitled thereto. And that the said W. L. and T. G. may be restrained by the injunction of this honorable Court from prosecuting their said actions so commenced as aforesaid, and that they and the said G. D. and J. B. the infant may be restrained from commencing any other actions or proceedings at law against any of the Plaintiffs, in order to compel the payment of the aforesaid rents or any part thereof. And further relief.

SECT. XXII.—CERTIORARI BILLS.

A BILL praying the writ of *certiorari*, to remove a cause from an inferior court of equity, is founded upon suggestion, that the cause is out of the jurisdiction of such court; or that the witnesses, or the Defendants live out of its jurisdiction, or upon some good reasons given, why equal justice may not be had in such court; so that a *certiorari* bill has something of the nature of an injunction bill, as to the jurisdiction of inferior courts. (*Pract. Reg.* 82.)

This species of bill, having no other object than to remove a cause from an inferior court of equity, merely states the proceedings in the inferior court, shews the incompetency of that court, and prays the writ of *certiorari*. It does not pray that the Defendant may answer or even appear, and consequently it prays no writ of *subpœna*. (*Mit.* 49.)

Upon or before the receipt of the writ, the Plaintiff must enter into a bond, with condition, that the bill exhibited contains matter sufficient to bear a *certiorari*, and that the Plaintiff will prove the suggestion of the bill in fourteen days after the return of the writ.

The *certiorari* bond is to be entered into by the Plaintiff, and one surety in the penalty of £100 to the Master of the Rolls and the senior Master in Chancery.

A special writ of *certiorari* is frequently prayed for in a bill filed by a Defendant, to remove a cause into the Court of Chancery, upon a suggestion, either that the cause is out of the jurisdiction of the inferior court, or that the De-

fendants or the witnesses, live out of its jurisdiction, and are not able, owing to age or infirmities, or the distance at which they live, to attend such inferior court, or cannot be compelled by the process of such court to be examined there, and that for these or other reasons, assigned in the bill, equal justice is not likely to be obtained in such court.

When interrogatories to prove the suggestions of the *certiorari* bill are necessary, they must be filed with the examiner, and witnesses examined by the Plaintiff, and by him only, for the Defendant is not permitted to examine or to publish any thing to disprove their testimony. An order must be procured by motion or petition to refer such examination to a master, and for the examiner to attend with the depositions.

Bill to remove a Cause from the Lord Mayor's Court into the High Court of Chancery.

Humbly complaining, sheweth, &c. your Orator A. B. &c. that whereas, &c. (*setting forth the cause prosecuted in the Lord Mayor's Court*): All which said premises your Orator hopes he shall make fully appear by several witnesses, if need be, which he could not produce within the said city of L. before the said lord mayor and his brethren the aldermen of the city of L.: your Orator shewing unto your Lordship, that one E. F. a material witness for your said Orator, concerning the said premises, at the time of the cause, &c. then lived and resided, and still liveth and resideth at W. without the jurisdiction of the said lord mayor and his brethren the aldermen of the city of L. whereby your Orator had no remedy to compel the said E. F. to be examined, or to give his testimony in the said cause in the city of L. concerning the premises; in tender consideration whereof, and forasmuch as for want of jurisdiction in the said lord mayor and his brethren the aldermen of the said city of L. over your Orator's witnesses, your Orator is remediless there; and it being agreeable with the rules and practice of this honorable Court, upon such necessities and defects of jurisdiction in inferior courts, for this high and honorable Court to remove the records and proceedings thereof into this honorable Court, and to proceed in this Court upon the same, and all other matters and things incident thereto, or whereupon your Orator seeks relief.

Prayer.

May it please your Lordship, therefore, not only to grant unto your Orator a writ of *certiorari* to be directed to the said lord mayor of the city of L. and his brethren the aldermen of the said city, thereby commanding them, upon the receipt of the said writ, to certify and remove the records of the said cause, &c. and all proceedings thereupon into this honorable Court; but also to grant unto your Orator his Majesty's most gracious writ of subpoena to be directed to the said C. D. &c. thereby commanding them and every of them, at a certain day, and under a certain pain therein to be limited, personally to be and appear before your Lordship in the high and honorable Court of Chancery, then and there upon their corporal oaths fully and directly to answer all and singular the premises, and to set forth and discover whether, &c. and whether it was not declared and agreed, &c. and whether the said C. D. &c. be not indebted unto your said Orator, and in what sum, and that your said Orator may be righted and relieved in all and singular the premises, according to equity and good conscience. And that the said Defendants may stand to, observe, and perform such order and decree therein, as your Lordship in your great wisdom shall think just and meet.

CHAPTER IV.

ORIGINAL BILLS NOT PRAYING RELIEF.

SECT. I.

BILLS TO PERPETUATE THE TESTIMONY OF WITNESSES,

OR,

In perpetuam rei memoriam.

A BILL to perpetuate the testimony of witnesses must state the matter, touching which the Plaintiff is desirous of giving evidence, and must shew that he has some interest in the subject, and pray leave to examine witnesses touching the matter so stated, to the end that their testimony may be preserved and perpetuated.

The bill ought also to shew, that the facts to which the testimony of the witnesses proposed to be examined is conceived to relate, cannot be immediately investigated in a court of law, as in the case of a person in possession, without disturbance; or that before the facts can be investigated in a court of law, the evidence of a material witness is likely to be lost, by his death, or departure from the realm. To avoid objection to a bill framed on the latter ground, it seems proper to annex to it an affidavit of the circumstances by which the evidence intended to be perpetuated is in danger of being lost.—*Mitf.* 50.

If, in a bill to perpetuate testimony respecting a right of common and way, the charges in the bill are too general,
and

and not sufficiently descriptive of any particular right, a demurrer will hold, for the bill must set out the way exactly per *et trans.* in the same manner as it ought to be set out in a declaration at law.

With respect to the statement in the bill, of the matter touching which the Plaintiff is desirous of acquiring evidence, Lord E. has observed that great danger may arise out of such bills, and that the facts, which the Plaintiff wishes to be examined to, should be particularly stated.

As to shewing the interest of the Defendant to contest the title of the Plaintiff on the subject, it has been determined, that to a bill brought to perpetuate testimony as to the legitimacy of the Plaintiffs, who were infants, and entitled to a remainder in tail, after an estate for life, against others in remainder, a demurrer, by those who were the seventh and eighth in remainder, on the ground that their interests were too remote to justify their being made Defendants, was over-ruled.—*Mad. Cha.*

Bill to examine Plaintiff's Witnesses, to perpetuate their Testimony as to Boundaries of Plaintiff's Estate.

That Plaintiff now is, and for some years hath been, seized in fee-simple, or of some other good estate of inheritance of and in the manor of R. with its rights, members, royalties, commons, wastes, and other appurtenances thereunto belonging, situate in, &c. and of that tenement or moor, with all and singular its members and appurtenances whatsoever, heretofore used, occupied, or enjoyed, as parcel or member thereof, with all ways, wastes, and advantages to the same belonging, commonly called or known by the name of H. M. and which is parcel, or reputed to be parcel of the manor of R. and within the said parish of G. in the said county of , and which said manor and estates have been held and enjoyed by Plaintiff and his ancestors, or their tenants or under-tenants, for a great number of years, and which said tenement, called J. C. M. and some other part of the manor of R. was formerly in the possession of , and lately of , who severally and successively held the same as under-tenants to J. W. who was, and now is entitled thereto, under and by virtue of a lease from one of Plaintiff's ancestors, for a long term of years, or some other estate or interest, which is now subsisting.

That sir F. B. bart. one of the Defendants hereinafter named, is seized or entitled, in fee-simple, or for some other estate, in possession of, or to a tenement and lands, called or known by the name of P. the whole whereof lieth within the parish of C. within said county of, and adjoins to Plaintiff's tenement, called H. M.

That part of the boundary between Plaintiff's said tenement or moor, called H. M. and sir F. B.'s said tenement called P. hath been, from time to time, whereof the memory of man is not to the contrary, and now is, as follows; that is to say (*state the boundaries*), Plaintiff hoped, that on the determination of the present subsisting lease of the said tenement or moor called H. M. under which said J. W. is now entitled to, and holds possession of such tenement or moor, the custom thereof, according to such ancient boundary, would have been delivered up to Plaintiff, so that Plaintiff, his heirs and assigns, might at all times have enjoyed the same from thenceforth, according to such ancient boundary. But now, &c. the Defendants, sir F. B. and T. T. the tenant of said tenement called P. Defendants, combining, &c. *Pretend*, that Plaintiff hath not, and that neither he nor any of his ancestors ever had any estate, right, or interest, in or to the said manor of R. or said tenement called H. M. or any part thereof; at other times admitting the contrary, *Pretend*, that the true, real, and immemorial boundary between Plaintiff's manor of R. and his tenement called H. M. and Defendants said tenement called P. is not such as hereinbefore set forth, but is as follows, viz. &c. *Charge*, that Plaintiff and his ancestors have, for a long series of years, held and enjoyed the said manor of R. and the lands, hereditaments, and appurtenances thereto, and particularly said tenement called H. M. and that the whole thereof is lying within the parish of G. and that the true, real, and immemorial boundary between same and said estate or tenement called P. was, and is such as is hereinbefore particularly described, and no other; and it is, and immemorially hath been constantly so reputed in the neighbourhood, and that no part of the land

land lying on the south-west side of the bed of the ancient river and fence aforesaid, belongs to the said sir F. B. or his said tenement of P. and that the whole of said tenement of P. lieth within said parish of C. and so it is mentioned in several deeds and writings relating thereto, in the custody or power of said sir F. B. and said sir F. B. hath no right or interest in any lands belonging to said tenement called P. within said parish of G. but the true and real boundary between said two tenements having been, for several years last past, neglected to be discriminated, by reason that all or most of the particulars of both such tenements have been, for a long time, held and occupied by the same under-tenants, the said sir F. B. and T. T. taking advantage of such circumstance, now deny that the real boundary between said tenements is as hereinbefore mentioned by Plaintiff, and insist that such boundary is as hereinbefore set forth, to be pretended by them, and consequently a great quantity of land, which is really part of Plaintiff's said manor of R. and of said tenement called H. M. is part of said tenement called P. and that, on the expiration or determination of said lease, now subsisting, of or on the tenement called H. M. possession thereof shall be delivered unto Plaintiff duly, according to the boundary so pretended by them the said Defendants. And said sir F. B. and T. T. his tenant, in collusion with J. W. Plaintiff's immediate tenant of said tenement, called H. M. and the under-tenant of said J. W. decline to do any acts or act to bring the question, as to the real boundary between said tenement, for a legal determination, well knowing that many persons, who are now living, and much advanced in years, can prove that the boundary is really such as is hereinbefore mentioned, and hoping that such persons may die before the expiration of said lease of said tenement, called H. M. whereby Plaintiff would be deprived of the benefit of their testimony. All which, &c.

Prayer.

That Plaintiff may be at liberty to examine his witnesses to the several matters and things herein before mentioned, and particularly respecting the boundary between said tenement called H. M. and said tenement called P. And that Plaintiff may be at liberty, on all future occasions, to read and make use of the same, as he shall be advised. May it please, &c.

W. A.

Bill to perpetuate the Testimony of Witnesses to a Will.

Humbly complaining, sheweth unto your Lordship, your Orator T. H. of, &c. brother of the half blood and devisee named in the last will and testament of T. R. of, &c. deceased, that the said T. R. was in his life-time, and at the time of his death, seized or entitled to him and his heirs, of or to divers freehold and copyhold manors, messuages, farms, lands, tenements, and hereditaments, situate in the several places hereinafter mentioned, and divers other places, of considerable yearly value in the whole, and being seized or entitled, and having duly surrendered the copyhold premises thereof to the use of his will, and being of sound and disposing mind, memory, and understanding, he made his
last

last will and testament in writing, bearing date, &c. which was duly executed by him in the presence of three credible persons, who attested and subscribed the same as witnesses thereto in his presence, and which will, with the attestation thereof, is in the words following, (that is to say,) &c. And your, &c. that the said T. R. afterwards, and on or about, &c. departed this life, without revoking or altering his said will, or any part thereof, whereupon your Orator, by virtue of the said will, became entitled in fee-simple to all his freehold and copyhold estates, subject as to such part thereof as aforesaid to so much of the funeral expenses, debts and legacies of the said T. R., as his personal estate may fall short to pay. And your Orator accordingly, soon after the death of the said T. R., entered upon and took possession of all the said estates, and is now in possession and receipt of the rents and profits thereof, and in the possession and enjoyment thereof. And your Orator well hoped, that he and his heirs and assigns would have been permitted to enjoy the same quietly, without any interruption from any person whomsoever. But now, &c. T. H. of, &c. who claims to be cousin and heir at law of the said T. R. alleging that he is the only or eldest son of T. H. and M. his wife, both deceased, which said T. H. as is also alleged, was the only child of T. T., who, as is likewise alleged, was the only brother of the father of the said T. R. that left any issue. And he pretends, that the said T. R. did not make such last will and testament in writing as aforesaid, or that he was not of sound and disposing mind and memory at the making thereof, or that the same was not executed in such manner as by law is required for devising real estates; and therefore he insists that your Orator hath not any right or title to the real estates late of the said T. R., or any part thereof, but on his death the same descended unto him the said T. H. as his heir at law. Which your Orator charges the contrary of such pretences to be true. But nevertheless the said T. H. gives out, that he will hereafter dispute the validity of the said will, when all the subscribing witnesses are dead, whereby your Orator, or his heirs and assigns, may be deprived of the benefit of their testimony. All which, &c. In tender consideration whereof, and forasmuch as your Orator cannot perpetuate the testimony of the subscribing witnesses to the said will without the assistance of a court of equity before your Lordship. To the end, &c.

Prayer.

That your Orator may be at liberty to examine his witnesses with respect to the execution and attestation of the said will, and sanity of mind of the said T. R. at the making of the same, so that their testimony may be perpetuated and preserved. May it please, &c.

Pray Subpæna against T. H.

W. A.

Observations.—Bills to perpetuate the testimony of witnesses are only proper where the Plaintiff, by being in possession and undisturbed, has no opportunity of asserting or trying his right at law. But where the Defendant is in possession, or has disturbed Plaintiff, they are not proper, because Plaintiff may have a remedy at law.

N. B. In the words of course omit the word "decree."

Bill

Bill to perpetuate Testimony of Witnesses as to a Marriage.

Humbly complaining, &c. your Orator C. B. of, &c. an infant under the age of twenty-one years, that is to say, of the age of years or thereabouts, by his next friend, that A. B. C. late of, &c. but now deceased, was, at the time of making his will hereinafter mentioned, and of his death, seized of, or well entitled to in fee-simple, considerable real estates in the several counties of, &c. and did, on or about, &c. duly make and publish his last will and testament in writing, which was executed and attested as by law is required for the passing of real estates, and did thereby, amongst other things, give and devise, &c. And your, &c. that the said A. B. C. departed this life on or about, &c. without having altered or revoked his said will, leaving the said W. J. S., E. B. S., and A. B. him surviving, that upon his death the said W. J. S. entered into and upon the possession of the said estates in the said counties, &c. so devised, and by virtue of the said will became possessed of the said estates for the term of years, determinable by his death. And the said W. J. S. afterwards departed this life on or about, &c. without issue male, whereupon the said E. B. S. entered into and upon the possession of the said several estates so devised, and by virtue of the said will became possessed thereof, for the like term of years, determinable by his death. And the said E. B. S. also departed this life without issue male, in or about, &c. and thereupon A. B. who was next in remainder to the said estates under the said will, entered into and upon the same, and became possessed thereof for the like term of years, determinable upon his death, and hath ever since been, and now is, in such possession. And your, &c. that the said A. B. intermarried, on or about, &c. with X. Y. his first wife, who departed this life on or about, &c. leaving no other issue than daughters. And that the said A. B. on or about, &c. intermarried in the parish church of, &c. with M. G. of, &c. his present wife, and that your Orator, who was born on, &c. is the only issue of that marriage, and under and by virtue of the said will of the said A. B. C. now is, and stands seized to him and the heirs of his body, of the reversion or remainder of the said several estates expectant on the determination of the said term of years, now vested as aforesaid in the said A. B. And your, &c. that I. R. Y. of, &c. was the eldest son of Z. Y. in the said will named, and that the said I. R. Y. departed this life on or about, &c. leaving R. M. Y., one of the Defendants hereinafter named, his eldest son, and A. Y. and B. Y., also Defendants hereinafter named, his other sons, him surviving. And your Orator well hoped, that his title as tenant in tail in remainder of the said several estates, expectant on the determination of the said term of years, now vested in his father, the said A. B. would in no manner have been disputed, but now so it is, &c. the said Defendants insist and pretend, that the said A. B. and M. G. were not legally married at the time of the birth of your Orator, or that your Orator was not the issue of such marriage, and that therefore your Orator has no such title as tenant in tail as aforesaid; whereas your Orator charges the contrary thereof to be the truth, and that although the said A. B. did, from motives of respect to the memory of his late wife,

wife, for some time conceal his marriage with the said M. B., yet that the said A. B. and M. B., then M. G., spinster, were duly married by licence on, &c. at the parish church of, &c. aforesaid, by the rev. R. F. of, &c. who was a particular friend of the said A. B. and M. G.; and such marriage ceremony was performed agreeably to the rites and ceremonies of the church of England, and in the presence of C. D., the curate of the said parish, and of C. F. the clerk thereof, and of F. G., the sister of the said M. G. And your Orator further charges, that your Orator was born on the, &c. in the parish of, &c. at a house in which your Orator's said father and mother had for some time resided, and in the presence of Dr. G., a physician of great eminence, and of P. W. who attended your Orator as nurse, and of F. the wife of, &c. a respectable publican in the said parish, who happened then to be in the house, and of the said F. G., the sister of your Orator's mother, who had lived with her during her pregnancy, was also in the house at the birth of your Orator, in an adjoining room. And your Orator was privately baptized on, &c. by the said R. F., and was afterwards publicly baptized at the parish church of, &c. and the register of your Orator's birth was made at the chapel in street, on the, &c. in the registry kept therein for the use of protestant dissenters. But nevertheless the said R. M. Y. and B. Y., although they well know the several facts aforesaid, yet mean and intend to dispute the validity of your Orator's said title to the said estates after the death of the said A. B., when the several witnesses necessary to establish the same are dead, many of whom are now infirm and much advanced in years. To the end, &c.

Prayer.

And that the said Defendants may answer the premises. And that your Orator may be at liberty to examine his witnesses to the several matters and things hereinbefore mentioned, and particularly with respect to the intermarriage of the said A. B. and M. B., the father and mother of your Orator, and to the birth of your Orator after such intermarriage, so that the testimony of the said witnesses may be preserved and perpetuated. And that your Orator may be at liberty at all future occasions to read and make use of the same, as he shall be advised. May it please, &c.

J. L.

*Pray Subpoena against R. M. Y.,
A. Y. and B. Y.*

SECT. II.—BILLS OF DISCOVERY.

EVERY bill is in reality a bill of discovery, but the species of bill usually distinguished by that title is a bill for discovery of facts resting in the knowledge of the Defendant, or of deeds, or writings, or other things in his custody or power, and seeking no relief in consequence of the discovery. This bill is commonly used in aid of the jurisdiction of some other court; as to enable the Plaintiff to prosecute or defend an action at law, a proceeding before the king in council, or any other legal proceeding of a nature merely civil, before a jurisdiction which cannot compel a discovery on oath, except that the court has in some instances refused to give this aid to the jurisdiction of inferior courts. A bill of this nature must state the matter touching which a discovery is sought, the interest of the Plaintiff and Defendant in the subject, and the right of the first to require the discovery from the other. If a bill seeking a discovery of deeds or writings, also prays such relief as might be obtained at law if the deeds or writings were in the custody of the Plaintiff, he must annex to his bill an affidavit that they are not in his custody or power, and that he knows not where they are, unless they are in the hands of the Defendant; but a bill for a discovery merely, or which only prays the delivery of deeds or writings, or equitable relief grounded upon them, does not require such an affidavit. *Mit. 52, 53.*

With respect to affidavits to accompany bills of this description, the rule appears to be, that where a party comes only for discovery of a deed, he need not make oath of the loss of it, as he must do when he comes for relief; for he
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is not allowed to translate the jurisdiction without oath made of the loss of the deed, and this is the constant distinction.

It is a general rule, applicable indeed not merely to this description of bill, but to all kinds of bills, that no person can be compelled to give a discovery that may subject him to a prosecution of felony, or to answer what is a matter of scandal, or what may lead to a legal accusation, or to what may subject him to a penalty, and not merely what must ; or any thing in the nature of a penalty or forfeiture, the Defendant must then discover, but the waiver ought to be by all those who can claim any part of the penalty or forfeiture, for if the penalty belongs one half to the king and the other to a corporation, the waiver by the corporation, and not by the Attorney-General also, is not sufficient. But if the Defendant has covenanted to answer any bill of discovery, and not to plead the acts inflicting penalties, in such case he is bound to answer. *Mad. Cha.*

Bill of Discovery in the Lord Mayor's Court, by the Defendant in the Action there, as to the Cause being within the Jurisdiction.

To the Right Honorable J. P. Lord Mayor of the City of L., and to the Worshipful his Brethren, the Aldermen of the same City :—

Humbly complaining, sheweth unto your Lordship and Worships, your Orator M. W. of, &c. that W. B., J. B., and S. B., all of, &c. merchants and copartners, have lately commenced an action against your Orator in this honorable Court, and have declared in such action *in concessit solvere*, and your Orator hath pleaded thereto that the cause of such action (if any) accrued out of the jurisdiction of this Court, to which the Plaintiffs in the said action have replied, that the cause of such action accrued within the jurisdiction. And your Orator further sheweth, that he never had any dealings and transactions whatsoever with the said W. B., J. B., and S. B., within the city of L., or within the jurisdiction of this Court, and he hath applied to them to state the particulars of the demand upon which the said action is commenced, and the nature and origin thereof. But now so it is, may it please your Lordship and Worships, that the said W. B., &c. refuse to state a full, true, and particular account of the particulars and amount of the demand, in respect whereof the said action is commenced, together with the times or time when, and the manner in which, and the place where the several transactions took place, from which such demand arose, and who were all the persons concerned therein.

And the said Defendants sometimes pretend, that the said demand arose from some bills or bill of exchange, which were or was drawn, accepted, or indorsed by your Orator, or on his behalf, but they refuse to set forth the dates and contents of such bills or bill, and when, and where, and by whom, and on whom the same were or was drawn, and by whom the same were or was accepted and indorsed, and what considerations or consideration were or was paid or given to your Orator for drawing, accepting, or indorsing the said bills or bill, and when, and where, and by whom, and in what manner such consideration was paid or given, and when, and where, and in what manner the said Defendants first became the holders of such bills or bill, and what consideration was paid or given by them for the same, and when, and in what manner, and to whom such consideration was so paid or given by the said Defendants, and in what manner they make out a demand against your Orator upon the said bills or bill, arising within the jurisdiction of this Court.

And your Orator charges, that the said Defendants have in their custody or power divers books of account, letters, and copies of letters, and other papers and writings, which relate to their said demand upon which the said action has been commenced, but they refuse to set forth an accurate list and description of all such books of account, letters, copies of letters, papers and writings, and to produce the same to your Orator and his agents; and your Orator, without a discovery of the several matters aforesaid, will be unable to defend himself in such action.

To

To the end therefore that the said Defendants W. B., J. B., and S. B. may, upon their several and respective corporal oaths, full, true, perfect, and direct answer make to all the matters aforesaid, to the best and utmost of their respective knowledge, remembrance, information and belief, and that as fully as if the same were here repeated, and they thereunto severally and distinctly interrogated; and more especially that the said Defendants may severally answer and set forth in manner aforesaid, whether they the said W. B., J. B., and S. B. have not commenced an action against your Orator in this Court, and whether they have not declared in such action *in concessit solvere*, or how otherwise, and whether your Orator hath not pleaded thereto that the cause of such action (if any) accrued out of the jurisdiction of this Court, or to that effect; and whether the Plaintiffs in the said action have not replied that the cause of such action accrued within the jurisdiction, or how otherwise; and whether your Orator ever had, and when, any, and what dealings and transactions with them the said W. B., &c. within the city of London, or within the jurisdiction of this court, and where in particular; and that the said Defendants may state a full, true, and particular account of all the particulars and amount of the demand in respect whereof the said action is commenced, together with the times or time when, and the manner in which, and the place or places where the several transactions took place from which such demand arose, and who were all the persons concerned therein; and whether the said demand arose from any and what bills or bill of exchange which were or was drawn, accepted or indorsed by your Orator, or on his behalf; and that they may set forth the dates or date, and contents of all such bills or of such bill, and when, and where, and by whom, and on whom the same were or was drawn, and by whom the same were or was accepted and indorsed, and what considerations or consideration were or was paid or given to your Orator for drawing, accepting, or indorsing the said bills or bill, and when, and where, and by whom, and in what manner such consideration was paid or given by them for the same, and when, and where, and in what manner, and to whom such consideration, and every part thereof, was so paid or given by the said Defendants, and in what manner they make out a demand against your Orator upon the said bills or bill, arising within the jurisdiction of this Court. And that the said Defendants may answer and set forth, in manner aforesaid, whether they have not now, or had not, and when last, in their custody or power, some and what books or book of account, and some and what letters, and copies of letters, and other papers and writings which relate to their said demand upon which the said action has been commenced.

Prayer.

And that the said Defendants may set forth an accurate list and description of all and singular such books of account, letters, copies of letters, papers and writings, and that they may produce the same, with liberty for your Orator, his solicitors or agents, to inspect the same and take copies thereof, as they shall be advised. And that the said Defendants may make a full and true discovery of the several

veral matters aforesaid, and that your Orator may have the benefit thereof in the trial of the said action. May it please your Lordship and Worships, out of your accustomed goodness, to cause the said W. B. J. B. and S. B. to be warned, &c.

S. for W. W.

Pray process against W. B. J. B. and S. B.

N. B. Though this Bill does not pray any injunction, still it operates, and is in effect an injunction bill; because, by the practice of the Mayor's Court, a bill is a stay of proceedings from the time of filing thereof.

Discovery Bill in Lord Mayor's Court; Money attached.

States, that J. B., late of L., mariner, but now of, &c. being justly indebted unto Plaintiffs in the sum of £ for goods sold and delivered, and being informed that A. R. and W. G., of, &c. had in their hands and custody divers sums of money, and also divers goods and chattels, which belonged to and were the property of the said J. B.; and also several notes of hand, bills, and other securities, which were the property of the said J. B., the produce of goods sold by them, for and on account of the said J. B., to a very considerable amount, and more than sufficient to answer Plaintiffs' demands on said J. B.; and Plaintiff having frequently applied to the said J. B. for payment thereof, and they refusing to pay the same, Plaintiffs were advised to enter an action of debt in this honorable Court against J. B., and, according to the form of proceedings in such cases had, to cause such monies, goods, chattels, and effects of the said J. B. to be attached in the hands of the said Defendants; and Plaintiffs accordingly, on, &c. did cause such action of debt to be entered against the said J. B., and on the, &c. between the hours of and , in the , did cause an attachment to be thereupon made of the said monies, goods, chattels, and effects, in the hands of the said Defendants belonging to the said J. B.

Plaintiffs well hoped that the said Defendants well knew that said debt was justly due to Plaintiffs from said J. B., and that Defendants would have suffered Plaintiffs to have proceeded to a condemnation of said monies, goods, chattels, and effects of said J. B. so attached as aforesaid, and would have acquainted Plaintiffs of the particulars of the monies, goods, chattels, and effects, they had in their hands and custody belonging to the said J. B., and would have given Plaintiffs a particular account of the monies, goods, chattels and effects, in their hands and custody belonging to the said J. B., and thereby enabled Plaintiffs to have execution of the said attachment, as in justice and equity they ought to have done. But now, &c.

Pretend, that said J. B. was not indebted to Plaintiffs in manner and form aforesaid, or otherwise howsoever; and at other times admit that they were indebted as aforesaid; but then they

Pretend, that, at the time of making the said attachment, they had
Y
not

not any monies, goods, and chattels, belonging to said J. B., in their hands, custody, power, or possession.

Charge, that, at the time of making such attachment, said J. B. was indebted to them in manner and form aforesaid, and that said Defendants had, in their hands, monies, goods, chattels, and also notes, bills, and other securities, belonging to said J. B., to a great amount and value, and more than sufficient to answer and pay Plaintiffs demand; and that, since the making of the said attachment, divers other sums of money, goods, and chattels, and also notes, bills, and other securities, have come into their hands, power, custody, and possession, belonging to said J. B., and particularly that said Defendants had, in their hands and custody, at the time of the making said attachment, or at some time since the making, the sum of £ , or some large sum of money, which Defendants received of, &c. for and an account, and to the use of the said J. B., arising from the sale of goods belonging to and the property of the said J. B. And, at other times, the said Defendants admit, that at the time of making said attachment, they had monies, goods, chattels, and effects, and also notes, bills, and other securities of the said J. B., in their hands, custody, power, or possession, and that, since the making thereof, divers other sums of money, goods, and chattels, notes, bills, and other securities, belonging to the said J. B., have come into their hands, custody, power, or possession; but then they pretend, and give out in speeches, with a view and design to overturn and set aside the said attachment, so made by Plaintiffs as aforesaid, that long before the Plaintiffs making said attachment as aforesaid, said monies, goods, chattels, and effects, notes, bills, and other securities, belonging to said J. B., in their hands, were wholly appropriated, assigned, and made over by bills, orders, indorsements, assignments, or otherwise, by said J. B., to divers persons, prior to Plaintiffs making said attachment; and which said bills, orders, &c. Defendants pretend are binding on them, and that consequently they are compellable to apply the monies, goods, &c. accordingly; and at other times Defendants pretend, that, long before the time of Plaintiffs making such attachment as aforesaid, said monies, &c. belonging to said J. B., in their hands, were attached by other persons for more than the amount of such monies, goods, chattels, and effects, notes, bills, and other securities, and that such attachment being made prior to the attachment so made by the Plaintiffs as aforesaid, are entitled to a preference, and ought to be paid and discharged before Plaintiffs said attachment; and at other times the said Defendants admit, that, at the time of making the said attachment, they had, in their hands and custody, monies, goods, chattels, and effects, and also notes, bills, and other securities, belonging to said J. B., more than sufficient to answer and pay Plaintiffs said debt, but then they pretend, and give out in speeches, that the said monies, &c. were not liable, in law, to be attached, but refuse to give their reasons why they are not so liable; and at other times Defendants pretend, that said J. B. is indebted to them in a much larger sum of money than the said monies, &c. which they had in their hands, &c. at the time of the making the said attachment, and which have since come into their hands, &c. would be sufficient to satisfy and pay. All which, &c. (interrogate to each fact.)

Prayer.

Prayer.

And that the said Defendants may answer and set forth why, and for what reasons the monies, &c. attached by Plaintiffs as aforesaid; and if Defendants shall persist in pretending that said J. B. was indebted to them in any or a much larger sum of money than the monies, &c. in their hands and custody, will be sufficient to satisfy and pay them, then that they may set forth and discover the particulars of such debt and debts, sum and sums of money so due and owing from the said J. B. and said Defendants; and how, and in what manner, and upon what account the said debt or debts was or were contracted, and when; and that they may set forth and discover how much of the monies, &c. belonging to the said J. B., in their hands, &c. at the time of making the said attachment as aforesaid, or come into their hands since the making thereof, now remain in their hands, &c. the balance or balances due from them at the time of making the said attachment by Plaintiffs as aforesaid, or at any time since, to said J. B.

And that Plaintiffs may have a full disclosure and discovery of the matters and things heretofore stated, and charged, and enquired after. May it please, &c.

N. K.

Bill to force a Discovery of Deeds.

Humbly complaining, shew unto your Lordship, your Oratrix I. I. of _____, and B. I. of _____, two of the daughters of E. I., late of _____, deceased, that by some deed or deeds, will or wills, duly made and executed by your Orator's ancestors, or some or one of them, divers manors, messuages, lands, tenements, and hereditaments, of considerable yearly value in the whole, situate, lying, and being in divers parishes and places within the several counties of G., B., and M., were limited and settled, or assured and agreed to be limited, settled, and assured to, for, or upon particular uses, trusts, intents, or purposes, under which, or some, or one of them, your Oratrixes' ancestors, or some or one of them, and particularly your Oratrixes' said father were or was entitled to the premises as tenant in tail general or tail male, or your Oratrixes said father was entitled thereto, for his life, with remainder to his first and other sons in tail male and tail general, with remainder to the daughters, or issue of the body of your Oratrixes' said father, or in some other manner, so that your Oratrixes, and the other daughters of the said E. I., had an estate or estates in remainder, in the whole, or part thereof, either as tenants in common, or otherwise, in tail or tail general, or for their life or lives, upon failure of their said late father, as in and by the said deeds or deed, wills or will, or other writings or writing, or some copies or extracts thereof, now or late in the custody or power of the Defendants hereinafter named, or some or one of them, relation being, &c. And, &c. that the said E. I., under and by

virtue of such deeds or deed, wills or will, or other writings or writing, continued seized, or in possession of all the said premises, and in the receipt of the rents and profits thereof, until the time of his decease. And, &c. that the said E. I. died on or about the _____, leaving R. M. I. an infant, his only son and heir at law, and your Oratrixes, and four other daughters, (that is to say,) &c.; and that, upon the decease of the said E. I., the said R. M. I. became entitled to all the said manors, messuages, farms, lands, tenements, hereditaments, and premises, as tenant for life, or tail male, or tail general, by virtue of or under the said deeds or deed, wills or will, writings or writing, and to the possession of all the title deeds or writings relating thereto, all which were in the custody or power of your Oratrixes' said late father, at the time of his death; and that the said R. M. I., upon attaining the age of twenty-one years, entered into the possession of all the said hereditaments and real estates, and continued in possession and receipt of the rents, issues, and profits thereof until the time of his death; and that T. W., of _____, and G. K., of _____, or one of them, who were the guardians of the person and estate of the said R. M. I., during his minority, also got into their or one of their custody or power, or in the custody or power of some other person or persons, to whom they delivered the same, since the death of the said R. M. I. And, &c. that the said R. M. I. departed this life, on or about the _____ day of _____, unmarried, without issue, leaving your Oratrixes and the said E. T., M., D. A., and M. W., four other of the Defendants hereinafter mentioned, his sisters, and co-heirs at law, him surviving, and, on his death, your Oratrixes, and their said other sisters, or some or one of them, became entitled under the said deeds or deed, wills or will, writings or writing, unto all the aforesaid manors, messuages, farms, lands, tenements, and hereditaments, and premises, in the said counties of _____ as tenants in common, or in some other manner in tail male, or tail general, or otherwise, or they, or some, or one of them, ought, accordingly, thereupon to have had possession thereof, and of all the title deeds or writings relating thereto, some of which were in the possession or power of the said R. M. I. at the time of his death, as aforesaid, or of the said G. W. and G. K., some or one of them. But your Oratrixes, &c. that, soon after the death of the said R. M. I., W. R., of _____, got into the possession of all the said manors, messuages, &c. and hath ever since been, and now is, in possession and receipt of the rents and profits thereof; and he hath also got into his custody or power all the title deeds or writings relating thereto, and particularly such of them as relate to such part of the said premises as are situated in the several counties of _____, &c. and the same now are in his custody or power, or in the custody or power of some other person or persons to whom he hath delivered the same; and the said W. K. hath also, since the death of the said R. M. I., cut down or felled, or caused to be cut down or felled, divers timber and other trees which were standing and growing on the said premises, of which he hath taken possession as aforesaid, and sold and disposed of the same for a large sum of money in the whole, and hath since received and applied the same to his own use. And, &c. that your Oratrixes have at several times, since the death of their said late brother R. M. I., by themselves and their agents, applied to

to the said W. K., T. W., and G. R., and requested them to produce unto your Oratrixes all the deeds and writings in their respective custody and power relating to any of the real estates, late of the said E. I., your Oratrixes late father, in order that the same might be inspected by proper persons on behalf of your Oratrixes and the other daughters of the said E. I., so that your Oratrixes might be able therefrom to discover the particular estate to which they are entitled as aforesaid. And your Oratrixes well hoped, that such their reasonable requests would have been complied with. But now, &c. sometimes pretend, that no settlement whatever was ever made by an ancestor of your Oratrixes, of all or any of the estates of your Oratrixes said late father, by any deed or will, or other writing whatsoever, and that no such deed, will, or other writing, or any copy or extract of any such, now is, or ever was, in the custody or power of them, the said Defendants, or any or either of them; or that if any such settlement was made that all the limitations thereby made were, long before the death of the said E. I. barred by some fine or fines, recovery or recoveries, levied or suffered by some person or persons who were, or was entitled to the said estates, as tenants or tenant in tail, under such settlement, either by the said E. I. or the said Testator, your Oratrixes late brother. That your Oratrixes said late father became and was thereby seized of, or entitled unto the said estates as tenant in fee simple, and that by his said late will and testament in writing, or some codicil or codicils thereto annexed, he devised such estates, or some part thereof, unto, or to the use of, or in trust for the said R. N. I. and then the said confederates T. W. and G. K. or some or one of them, and therefore that they, or some or one of them, by virtue thereof, became absolutely entitled to the whole thereof, and all the limitations made by such settlements or settlement under which your Oratrixes claim as aforesaid of the said hereditaments and premises in the county of M. late of the said E. I. your Oratrixes late father, were after his death barred and destroyed by some fine or fines, recovery or recoveries, levied or suffered by the said R. N. I. in his life-time, and that he thereupon became seized of, or entitled unto all the said last-mentioned premises as tenant in fee simple; and that by his last will and testament in writing, devised all the real estates unto or to the use of, or in trust for the said W. K. and his heirs and assigns for ever, and therefore that the said W. K. now is entitled absolutely unto all such parts of the aforesaid manors, messuages, &c. as were not devised by the said will of the said E. I. to the said T. W. and G. K. upon the trusts in the said will mentioned and expressed; and that your Oratrixes and the other daughters of the said E. I. or any of them, have or hath not, or ever had any right or title thereto, or to any part thereof, or to any of the rents and profits thereof, or of any part thereof; whereas your Oratrixes charge the contrary of all such pretences to be true, and that some deeds or deed, wills or will, or other writings or writing were or was duly made and executed, whereby an estate or interest in all and singular the said premises in remainder, expectant upon the failure of issue male of the said E. I. was well executed, or limited unto, or in favor of your Oratrixes, and the said other daughters of the said E. I. and and that some counterparts or counterpart, duplicates or duplicate, copies or copy, abstract or abstracts, extracts or extract, of some such deeds or deed, wills or will, or other writings or writing, are or is, or lately were in the custody or power of them the said confederates W. K. T. W. and G. R.

G. R. or some or one of them, and so it would appear, if they would, as they ought, produce all the title deeds and writings in their respective custody or power relating to such estates, and every part thereof. And your Oratrixes also charge, that no fine hath ever been leyied, nor any recovery suffered of the said estates in the several counties of G. B. and M. or any part thereof, since the making of such settlements thereof as afore~~said~~, or however, not by any persons or person, who at the time of the levying or suffering thereof was tenant in tail of the estates therein respectively comprized, or that there was not a good and sufficient tenant of the freehold of the said estates comprized in the said fine or fines, recovery or recoveries for the deed or deeds executed for declaring the use of such fine or fines, recoveries or recovery, or by some other deeds or deed, wills or will, or other writings or writing subsequent thereto, under which your Oratrixes are entitled to the said estates, or some part thereof, and so it would appear by the deeds or writings relating to the said estates in the custody or power of them the said last-mentioned confederates, or some or one of them, if the same were produced. And your Oratrixes also charge, that neither of them your Oratrixes said late father, or the said R. M. I. your Oratrixes said brother ever made any last will or testament in writing, whereby they, or either of them, devised their, or either of their said real estate, or any part thereof, to any persons or person, other than and besides your Oratrixes; or if any such wills or will was or were made, yet that the same were or was not executed in such manner as by law is required, for devising or passing a real estate, and that therefore your Oratrixes, and the said other Defendants, their sisters, as the co-heiresses at law of their said late father and brother, are now entitled to all the said real estates. And your Oratrixes also further charge, that divers parts of the said real estates, in the several counties of G. B. and M. were copyhold and customaryhold, and that no part thereof was ever surrendered by the said E. I. or the said R. M. I. to the use of their, or either of their wills; and therefore your Oratrixes humbly insist, that no part of such copyhold or customary lands will pass by such wills or will, if any such there be. And that your Oratrixes and their sisters are now well entitled thereto. And so these Defendants, as your Oratrixes charge, will sometimes admit the truth to be; but then they pretend, that they cannot distinguish or set out the said copyhold or customaryhold premises from the freehold or other estates, late of your Oratrixes late father. And they, the said last mentioned confederates, or some of them, now have or hath, or lately had in their, or one of their power or custody, divers maps, plans, terriers, copies of court-rolls, deeds, or other evidences or writings, wherein every part of the said real estates, in the said several counties of G. B. and M. which is copyhold or customaryhold, is particularly marked out, described, or distinguished, or by the means or assistance thereof, they the said Defendants, or any other person, may be able fully to set out, ascertain, or distinguish the same, or the bounds thereof, if they inspect or produce the same. And your Oratrixes also humbly insist, that in case the said copyhold or customaryhold premises cannot be otherwise distinguished or separated from the freehold and other estates, late of the said E. I. a commission ought to be awarded and issued out of and under the seal of this honorable Court, directed to certain

certain commissioners, to be therein named, to ascertain the same, and the bounds thereof. But nevertheless, under such and the like pretences as aforesaid, or some others equally unjust and unreasonable, the said Defendants, and particularly the said W. K. persist in their claim to the said real estate, and refuse to deliver up the possession of the said estates, or any part thereof, or to account with your Oratrixes for their share of the rents or profits thereof, or any part thereof, or to deliver unto your Oratrixes, and their said sisters, or to any person on their behalf, or to set out or distinguish the said copyhold or customaryhold premises from the freehold and other estates of your Oratrixes said father; and the said W. K. also refuses to pay, or to make unto your Oratrixes, and their said sisters, or any of them, any satisfaction for the value of the said timber, and other trees, which he hath cut down or felled on the said estates or premises, or any part thereof. And at the same time he, the said Defendant, W. K. threatens or gives out, that he will cut down other timber and other trees, now standing and growing upon the said estates, or some part thereof, and commit other waste or spoil thereon. And they also pretend, that there are, or in some old terms or term of years, mortgages or mortgage, or other incumbrances or incumbrance, upon or affecting the said estates, or some of them, or some part thereof, prior to the derivation of your Oratrix's right thereto, and that they will set up such terms or term of years, mortgages or mortgage, or other incumbrances, in bar to your Oratrixes and their sisters, if they shall proceed at law for the recovery of the possession of the said estates, or any part thereof, or any satisfaction for the rents and profits thereof; and at some times the said last mentioned confederates claim, or some or one of them, some other right or interest to or in the said estates, or some part thereof, but they refuse to discover the particulars thereof, or how they derive or make out the same. And the said other Defendants refuse to join with your Oratrixes in the said suit. All which, &c. To the end, &c.

Prayer.

And that the said W. K. T. W. and G. R. may produce and leave in the hands of their clerk in court, in this cause, or otherwise, as this honorable Court shall direct, all the deeds or writings in their respective custody or power, relating to the real estate of your Oratrix's said late father, or any part thereof, for the inspection and perusal of your Oratrixes, their sisters, and agents; and that possession of the said estates, on such parts thereof as shall appear to belong to your Oratrixes and their said sisters, or any or either of them, under any deeds or deed, wills or will, or writings or writing, executed by any of their ancestors, may be delivered unto them, together with all the title deeds and writings relating thereto; and that they the said W. K. T. W. and G. R. or such of them as are or have been in the possession of the said estates, or any part thereof, may account with your Oratrixes and their said sisters, and make them satisfaction for the rents and profits thereof, become due since the death of your Oratrixes late brother, and received by them the said Defendants, or by their, or any or either of their orders, or for their
or

or any, or either of their use. And if it shall appear that your Oratrixes said late father and brother, or either of them, were, at the time of their respective deaths, seized or entuled unto the said real estates, or any part thereof, in fee-simple, or had power to dispose thereof, by will, and that such parts thereof as were copyhold or customaryhold, were not surrendered by your Oratrixes said late father or brother, to the uses of their said respective wills, then that the said Defendants may set forth and distinguish the said copyhold and customaryhold premises from the freehold and other parts of the said estates, or otherwise, that a commission may be awarded and issued out of and under the seal of this honorable Court, directed to certain commissioners to be therein named, to set out, distinguish, and ascertain the said copyhold and customaryhold premises, and the metes and boundaries thereof; and that the possession of the said copyholds may be delivered to your Oratrixes and their said sisters, or such of them as shall appear to be entitled thereto, together with all the evidences and writings relating thereto; and that the said W. K. T. W. and G. R. or such of them as are in possession of the said copyholds, may account with your Oratrixes and their said sisters, and make them satisfaction for the rents and profits become due since the death of your Oratrixes said brother, and received by them, or any or either of them, or by their or either of their orders, or for their or either of their use: and that an account may also be taken of the timber and other trees which have been cut down or felled by, or by the orders or order of the said Defendants, or any or either of them, which were standing or growing on the said estates, or any part thereof, and may pay and make satisfaction unto your Oratrixes and their said sisters for the value thereof; and that they may also be restrained by the injunction of this honorable Court, from cutting down or felling any more timber, or other trees, on the said estates, or any part thereof, and from committing any further or other waste or spoil thereon. And for further relief, &c.

J. S.

CHAPTER V.

BILLS NOT ORIGINAL.

SECT. I.—BILLS OF SUPPLEMENT AND REVIVOR.

BILLS not original are either an addition to, or a continuance of an original bill, or both. An imperfection in the frame of a bill may generally be remedied by amendment, but the imperfection may remain undiscovered whilst the proceedings are in such a state that an amendment cannot be permitted according to the practice of the court. This is particularly the case where, after the court has decided upon the suit as framed, it appears necessary to bring some other matter before the court to obtain the full effect of the decision ; or, before a decision has been obtained, but after the parties are at issue upon the points in the original bill, and witnesses have been examined, (in which case the practice of the court will not permit an amendment of the original bill,) some other point appears necessary to be made, or some additional discovery is found requisite ; and though a suit is perfect in its institution, it may, by some event subsequent to the filing of the original bill, become defective, so that no proceeding can be had, either as to the whole, or as to some part, with effect, or it may become abated, so that there can be no proceeding at all, either as to the whole, or as to part of the bill. The first is the case when, although the parties to the suit may remain before the court, some event subsequent to the institution of the suit, has either made such a change in the interests of those parties, or given to some other person such an interest in the matters in litigation, that the proceedings, as they stand, cannot have their full

full effect. The other is the case when, by some subsequent event, there is no person before the court by whom, or against whom, the suit, in the whole or in part, can be prosecuted. *Mit.* 53.

When any event happens subsequent to the time of filing an original bill, which gives a new interest in the matter in dispute to any person not a party to the bill, as the birth of a tenant in tail, or a new interest to a party, as the happening of some other contingency, the defect may be supplied by a bill which is usually called a supplemental bill, and is in fact merely so with respect to the rest of the suit, though with respect to its immediate object, and against any new party, it has in some degree the effect of an original bill. If any event happens which occasions any alteration in the interest of any of the parties to a suit, and does not deprive a Plaintiff suing in his own right of his whole interest in the subject, as in the case of a mortgage, or other partial change of interest; or if a Plaintiff suing in his own right is entirely deprived of his interest, but he is not the sole Plaintiff, the defect arising from this event may be supplied by a bill of the same kind, which is likewise commonly termed, and in some respects is, a supplemental bill merely, though in other respects, and especially against any new party, it has also in some degree the effect of an original bill. In all these cases the parties to the suit are able to proceed in it to a certain extent, though from the defect arising from the event subsequent to the filing of the original bill, the proceedings are not sufficient to attain their full object. *Mit.* 60.

A supplemental bill must state the original bill, and the proceedings thereon; and if the supplemental bill is occasioned by an event subsequent to the original bill, it must state that event, and the consequent alteration with respect

to the parties, and in general the supplemental bill must pray, that all the Defendants may appear and answer to the charges it contains. For if the supplemental bill is not for a discovery merely, the cause must be heard upon the supplemental bill at the same time that it is heard upon the original bill, if it has not been before heard; and if the cause has been before heard, it must be further heard upon the supplemental matter, if indeed the alteration or acquisition of interest happens to a Defendant, or a person necessary to be made a Defendant, the supplemental bill may be exhibited by the Plaintiff in the original suit against such person alone, and may pray a decree upon the particular supplemental matter alleged against that person only, unless (which is frequently the case) the interests of the other Defendants may be affected by that decree. Where a supplemental bill is merely for the purpose of bringing formal parties before the court as Defendants, the parties, Defendants to the original bill, need not in any case be made parties to the supplemental. *Harrison's Chancery*.

An original bill in the nature of a supplemental bill must state the original bill, the proceedings upon it, the event which has determined the interest of the party by or against whom the former bill was exhibited, and the manner in which the property was vested in the person become entitled, it must then shew the ground upon which the court ought to grant the benefit of the former suit to or against the person so become entitled, and pray the decree of the court adapted to the case of the Plaintiff in the new bill. This bill, though partaking of the nature of a supplemental bill, is not an addition to the original bill, but another original bill, which, in its consequences, may draw to itself the advantage of the proceedings on the former bill. *Harrison's Chancery*.

A bill of revivor must state the original bill, and the several proceedings thereon, and the abatement; it must shew a title to revive, and charge that the cause ought to be revived, and stand in the same condition with respect to the parties in the bill of revivor, as it was in with respect to the parties to the original bill at the time the abatement happened, and it must pray that the suit may be revived accordingly. It may be likewise necessary to pray that the Defendant may answer the bill of revivor, as in the case of a requisite admission of assets by the representative of a deceased party. In this case, if the Defendant does admit assets, the cause may proceed against him upon an order of revivor merely; but if he does not make that admission, the cause must be heard for the purpose of obtaining the necessary accounts of the estate of the deceased party to answer the demands made against it by the suit; and the prayer of the bill therefore, in such case usually is, not only that the suit may be revived, but also, that in case the Defendant shall not admit assets to answer the purposes of the suit, those accounts may be taken; and so far the bill is in the nature of an original bill. If a Defendant to an original bill dies before putting in an answer, or after an answer to which exceptions have been taken, or after an amendment of the bill to which no answer has been given, the bill of revivor, though requiring in itself no answer, must pray that the person against whom it seeks to revive the suit may answer the original bill, or so much of it as the exceptions taken to the answer of the former Defendant extend to, or the amendment remaining unanswered.

Supplemental Bill, stating a further Error in printed Particular, and claiming a further Compensation.

Humbly complaining, &c. your Orator A. M., of, &c. that, on or about, &c. your Orator exhibited his original bill of complaint in this honorable Court against, &c. the Defendants hereto, stating, &c. &c. (*state original bill*) and praying therefore, that, &c. And your, &c. that all the said Defendants, being duly served with process, appeared and put in their answers to the said original bills, and witnesses have been examined, and publication hath been passed, as in and by, &c. And your, &c. by way of supplement, that, in the printed particulars distributed at and previous to the said sale of the said manor and premises, and under which your Orator purchased, C. J., esq. was therein described to be in possession, as tenant to the said lord A., of acres of land, held for one life, called, &c. and of certain other lands held for two lives, making, together with the said acres, acres, roods, and perches; and the said printed particulars referred to a certain paper or terrier, called the terrier of , and in such terrier the said lands, so held by the said C. J., which were thereby made to amount to the said quantity of acres, roods, perches, were particularly described, and, as part thereof, were stated the six following articles, &c. &c. And your, &c. by way of supplement, that since publication hath passed in the said original cause, your Orator hath discovered, that although the said C. J. was in possession of the acres, roods, and perches, yet as to acres, part thereof, he held the same not as tenant to the said lord A., but as his own property, in fee-simple, (that is to say,) &c. &c. And your Orator sheweth, that — J., the widow of the said C. J., hath, under a certain act of parliament made and passed in the year of the reign of his present majesty, intituled "An act for inclosing lands in K., in the county of S.," claimed before the commissioners appointed thereby, and been allowed an allotment of land in respect of the said acres, as her own absolute property. And your Orator sheweth, that having purchased the said manor and premises upon the faith and confidence that the said acres, roods, and perches of land, in the possession of the said C. J., were held by him as tenant of the said Defendant lord A., according to the said printed particulars of sale, your Orator, since he hath discovered that the said acres, part thereof, were the absolute property of the said C. J. hath repeatedly applied to the said Defendants, and required them to make to your Orator a reasonable compensation in respect thereof, with which, &c. refuse so to do, pretending that the said acres, roods, and perches were, as described in the said particular of sale, held by the said C. J. as tenant thereof to the said lord A., whereas your Orator charges the contrary thereof to be the truth. To the end, &c. (*interrogate.*)

Prayer.

And that the said Defendants may answer the premises; and that it may be referred to one of the Masters of this honorable Court to inquire

inquire what compensation your Orator is entitled to, in respect of the loss of the said acres of land, and that such compensation, together with interest thereon, may be paid out of the said sum of £ , if so much shall remain thereof, after satisfaction of the demands of your Orator by the said original bill or otherwise, by the said Defendant lord A., and that this your Orator's bill of complaint may be deemed and taken as and for a bill of supplement to his said original bill of complaint. And for further relief.

J. L.

Pray letters missive, &c.

Supplemental Bill, Defendant having commenced an Action of Ejectment since filing original Bill, and an Injunction from proceeding in said Action.

Humbly complaining, sheweth unto your Lordship, your Orator J. K., of, &c. that in or as of term, , your Orator exhibited his original bill of complaint in this honorable Court against H. B. S., and which said bill hath been amended by order of this honorable Court, thereby praying that the said Defendant might be decreed speedily to perform his agreement with your Orator touching the lease of the farm and premises in the said bill mentioned, and so grant your Orator a lease thereof for years, commencing from the expiration of his former lease, at the yearly rent of £ , your Orator being willing and ready to do and perform every thing, on his part, required to be had and performed in pursuance of the said agreement. And your, &c. that the said Defendant appeared and put in his answer to the said original bill, as by the said bill and answer now remaining as of record in this honorable Court, reference being thereunto had will appear. And your Orator sheweth, that since the filing of the said original bill, the said defendant hath caused an action of ejectment to be commenced in his Majesty's court of King's Bench at Westminster, for the purpose of emitting and turning your Orator out of possession of the said farm and premises, and the said action is still depending in the said court. And your Orator being advised, the said Defendant cannot support such action, and that your Orator is entitled to a specific performance of the said agreement, as prayed by his said amended bill, he has, by himself and his agents, several times applied to and requested the said Defendant to desist from proceeding in the said action, and he was in hopes that he would have complied with such fair and reasonable request, as in justice and equity he ought to have done. But now so it is, may it please your Lordship, that the said H. B. S. refuses to comply with your Orator's said request, and insists upon proceeding in his said action, and to turn your Orator out of possession of the said farm and lands, to the manifest wrong and injury of your Orator in the premises. To the end, &c.

Prayer.

Prayer.

And that the said Defendant may be restrained, by the injunction of this honorable Court, from proceeding in the said action, and also from commencing any other action or proceeding at law for the purpose of turning your Orator out of possession of the said farm and lands. And for further relief.

A. C.

*Pray Subpœna and Injunction
against H. B. S.*

*Bill of Supplement, in the Nature of an original Bill,
for a Legacy of Stock given to I. L. in case he should
claim it within seven Years.*

Humbly complaining, sheweth unto your Lordship, your Oratrix L. S. T., of, &c. on behalf of herself and all other creditors of I. L., late of, &c. who shall come in and seek relief by and contribute to the expense of this suit, that, on or about, &c. your Oratrix exhibited her original bill of complaint in this honorable Court against I. L., since deceased, A. M. C., now the wife of R. H., clerk, and the governor and company of the bank of England, thereby stating, amongst other things, &c. [*state the bill*] and therefore praying, &c. And your, &c. that, soon after the filing of the said bill of complaint, your Oratrix obtained an injunction to restrain the said Defendant A. M. H. from transferring the said sum of stock, and that the said A. M. H., and the said R. H., her husband, have since put in their joint and several answers to the said bill, but that no further proceedings have been had in the said cause, as in and by, &c. And your Oratrix further sheweth unto your Lordship, by way of supplement, that, before the expiration of years from the death of the said Testator I. L., and in or about, &c. the said I. L., the son, departed this life, at M. aforesaid, without having, as it is alleged, ever returned to England since the death of the said Testator, but having duly made and published his last will and testament, in writing, which hath since been duly proved in the Prerogative Court of the archbishop of C. by G. W., of, &c. one of the Defendants hereto, the executor in England; and the said G. W. hath, by virtue thereof, possessed himself of the estate and effects of the said I. L., the son, to a considerable amount. And your, &c. by way of supplement, that, after the filing of the said original bill of complaint, and the obtaining of the said injunction to restrain the transfer of the said stock, the said Defendants R. H. and A. M. H., or one of them, wrote divers letters to the said I. L., the son, at M. and received from him divers other letters; and the said Defendants, or one of them, have now, or lately had, in their custody or power, the letters so received from the said I. L., the son, and also copies of the letters written by them to the said I. L., the son, or memorandums thereof, or the said Defendants can set forth the purport and effect

fect of the letters so received and written by them respectively. And your Oratrix sheweth, that the said Defendants R. H. and A. M. H. in the said letters so written to the said I. L. the son, informed the said I. L. of the suit instituted by your Oratrix as aforesaid, and of the injunction obtained therein, to restrain the transfer of the said sum of stock; and the said Defendants thereby prevailed upon, or induced the said I. L. the son, to delay returning to England in order to make a formal demand for the said sum of stock, according to the terms of the said Testator's will. And your Oratrix sheweth, that the said Defendants R. H. and A. M. H. have from time to time received the dividends on the said sum of stock, and have or ought to have laid out the same to accumulate according to the directions of the said Testator's will. And your Oratrix charges, that the said sum of stock, and all accumulations thereof, are part of the estate and effects of the said I. L. the son, and ought to be applied in, or towards satisfaction of your Oratrix, and the other creditors of the said I. L. in a due course of administration. But the said G. W. colludes with the said other Defendants, and declines to take any proceedings to recover and apply the said stock and accumulations accordingly.

To the end therefore, &c. Whether, &c. (*interrogate to the supplemental part*), and whether after the filing of the said original bill of complaint, and the obtaining the said injunction to restrain the transfer of the said stock, or at some other time or times, and when in particular the said Defendants R. H. and A. M. H. or one and which of them, or some other person or persons, and whom, by their, or one and which of their instructions, or with their, or one, and which of their privity, did not write divers, or some and what letters or letter to the said I. L. the son, or to some other person or persons, and whom, on his behalf, and whether not to M. or elsewhere, and where; and whether they, or one, and which of them, or some other person or persons, and whom, with their, or one, and which of their privity, did not receive from him, or some other person or persons, and whom, on his behalf, and when in particular, divers, or some and what other letters or letter, and whether the said Defendants, or one, and which of them, or some other persons or person, and whom, on their, or one, and which of their behalf, have not now, or lately have not had, and when last in their, or one, and which of their custody or power, the said letters or letter, so received from the said I. L. the son, or from some person or persons, and whom, on his behalf, or some, or one, and which of such letters or letter, or what hath become of such letters or letter; and whether they the said Defendants, or one and which of them, or some other persons or person, and whom, on their, or one, and which of their behalf, have not now, or have not had, and when last, in their, or one, and which of their custody or power, some and what copies or copy, memorandums or memorandum of the said letters or letter, or some, or one, and which of the said letters so written as aforesaid to the said I. L. the son, or to some person or persons, and whom, on his behalf. And that the said Defendants may set forth the said several letters or letter so written or received as aforesaid, in the very words and figures thereof respectively, and may leave the letters or letter so received, and the copies and memorandums of the letters or letter so written, in the hands of their clerk in Court, for the usual purposes. And if the
said

said Defendants have no such letters or letter, copies or copy, memorandum or memorandums, in their, or either of their, custody or power, then, that they may set forth the purport and effect of all such letters or letter so written or received as aforesaid, fully and particularly, to the best of their respective knowledge and belief; and whether said R. H. and A. M. H. or one and which of them, or some other person or persons, and whom, on their, or one, and which of their behalf, or with their, or one, and which of their privity, did not in some, or one, and which of the said letters or letter so written as aforesaid, inform the said I. L. of the suit so instituted by your Oratrix as aforesaid, and of the injunction obtained therein, to restrain the transfer of the said sum of stock, or to some such and what effect; and whether the said Defendants, or one, and which of them, or some other person or persons, and whom, on their behalf, or with their privity, did not thereby, or by some other and what means, prevail upon, or induce the said I. L. the son, to delay returning to England in order to make a formal demand for the said sum of stock, according to the terms of the said Testator's will, or for what reason, as the said Defendants, or either, and which of them know or believe, did the said I. L. the son, delay returning to England, for the purpose aforesaid, &c. &c.

Prayer.

And that the said Defendants may answer the premises. And that the said sum of £ 5 per cent. bank annuities, together with the accumulations that have, or might, and ought to have been made thereof, may be declared to be part of the personal estate and effects of the said I. L. may be applied, together with all other personal estate and effects of the said I. L. the son, which hath been possessed or received by the said G. W. in payment of your Oratrix and the other creditors of the said I. L. the son, in a due course of administration. And that for this purpose, all proper directions may be given, and for further, &c.

J. L. .

*Pray Subpœna against R. H.
and A. M. H. Governor
and Company of the Bank
of England and G. W.*

Supplemental Bill for Relief against the Assignees of a Bankrupt.

States, that Plaintiffs in term, , exhibited their bill of complaint in this honorable Court, against B. &c. praying that an account might be taken of the personal estate and effects, &c.

That the said Defendants being served with process issuing out of this honorable Court, to appear to answer Plaintiff's said bill of complaint, appeared accordingly, and put in their answer thereto, and Plaintiff replied to said answer; but before any further proceedings were had in the

said suit, a commission of bankruptcy under the great seal of Great Britain was awarded and issued against the said Defendant B. who hath been thereupon duly declared and certified a bankrupt. And D. of, &c. having been lately chosen assignee of the said bankrupt's estate and effects, the major part of the commissioners named and authorized in and by the said commission, have duly assigned all the late effects of the said bankrupts to the said D. and therefore the Plaintiff is advised, he is entitled to the same relief against the said D. as he would have been entitled unto against the said Defendant B. if he had not become a bankrupt.

Inquiry.

Therefore, that the said Defendant may upon his corporal oath, full, true, and distinct answer make to all and singular the matters aforesaid, according to the best of his knowledge and belief. And particularly that he may set forth whether Plaintiff did not, at or about such time as hereinbefore mentioned, or at what other time, exhibit his bill of complaint against the said Defendants as aforesaid; and whether such proceedings as aforesaid, or what other proceedings have not been had thereon; and whether a commission of bankruptcy, and when, and about what time, was not awarded against the said Defendant B.; and whether he was not found and duly declared a bankrupt; and whether his estate and effects have not been assigned by the major part of the commissioners, in and by the said commission named, to the said I. D. or to what other person or persons.

Prayer.

And that the Plaintiffs may have the benefit of the said suit and proceedings against the said D. and may have the same relief against him, as he might have had against the said B. in case he had not become a bankrupt. And for further relief, &c.

Supplemental Bill in consequence of the Bankruptcy of a Defendant.

States, that on the _____, Plaintiffs exhibited their original bill of complaint against I. T. &c. &c. the Defendants thereto, thereby stating the several matters and things therein mentioned, and praying, &c. &c.

That the said Defendants, on being served with process, severally appeared, and Defendants T. C. &c. put in their answers to said bill, but Defendant B. hath not yet answered same, and said £ _____ hath been paid into Court by Plaintiffs pursuant to an order for that purpose, and some other proceedings have been had in said cause, as in and by, &c.

That before any further proceedings were had in said cause, and on or about, &c. a commission of bankrupt under the great seal of Great Britain

tain was duly awarded and issued against said Defendant I. B. who hath been thereupon duly found and declared a bankrupt, and W. W. of, &c. and D. M. of, &c. have been duly chosen assignees of said bankrupt's estate and effects. And the major part of the commissioners named in, and acting under the said commission, have duly assigned all the estate and effects of said bankrupt to said W. W. and D. M. and therefore Plaintiffs are advised, that they are entitled to prosecute and carry on the said suit and proceedings, and to have the same relief against the said W. W. and D. M. as they should have been entitled to against said Defendant I. B. if he had not become a bankrupt.

Prayer.

And that the said Defendants W. W. and D. M. as well as Defendant B. may answer the matters aforesaid, and that the Plaintiffs may have the benefit of the said suit and proceedings against said Defendants W. W. and D. M. and may have the same relief against them as they might have had against said Defendant B. in case he had not become a bankrupt. And for further and other relief.

Bill of Supplement on the Birth of the first Tenant in Tail.

Humbly complaining, sheweth unto your Lordship, your Orator G. O. earl of E. of P. park, in the county of S. that on or about the day of , your Orator exhibited his original bill in this honorable Court, which was by an order of this honorable Court, bearing date, &c. duly amended, and such amended bill was against, &c. (*state original bill*) as Defendants thereto, thereby stating such several matters and things as are therein for that purpose more particularly mentioned and set forth, and praying, &c. And your, &c. that all the said Defendants being duly served with process, appeared, and that the said Defendants W. lord viscount L. W. L. H. C. L. I. L. I. H. L. and G. L. have put in their answer to the said original bill, as in and by, &c. And your, &c. by way of supplement, that since the filing of the said original bill, and in the mouth of , the said Defendant I. L. had a son born, who has since been christened by the name of C. H. And the said C. H. L. is now the first tenant in tail or remainder of the impropriate rectory of B. in the said original bill mentioned, under the limitations of the will of J. earl of L. deceased, the Testator in the original bill named. And your Orator therefore humbly insists, that he is entitled to have the same relief against the said C. H. L. as by the said original and amended bill is prayed against the several parties thereto.

Prayer.

To the end therefore, that the said C. H. L. may answer the premises.

And that your Orator may have the same relief against the said

C. H. L. as by the said original and amended bill is prayed as aforesaid, against the said several parties thereto. May it please, &c.

J. L.

Pray Subpœna against C. H. L.

Bill of Revivor upon the Death of Plaintiff, by his Administrator, the Executors under his Will having renounced.

Humbly complaining, sheweth unto your Lordship, your Orator J. A. of, &c. that J. A. late of, &c. but now deceased, on or about exhibited his original bill of complaint in this honorable Court, against G. T. W. as the Defendant thereto, thereby stating such several matters and things as are therein for that purpose more particularly mentioned and set forth, and praying, &c. And your, &c. that process duly issued against the Defendant, but he being in Ireland, and out of the jurisdiction of this honorable Court, he neither appeared, nor put in his answer to the said bill. And your Orator sheweth, that by an order, bearing date on or about the day of , upon the said J. A. the Plaintiff, consenting, &c. And your Orator sheweth, that process was sued out and served in pursuance of such order, and that the said Defendant thereupon appeared and put in his answer to the said bill of complaint. And your, &c. that on or about the day of the said Defendant caused this honorable Court to be moved, that he might be at liberty to sue out execution against the said complainant in the aforesaid action, and thereupon the Plaintiff J. A. consenting by his codicil, &c. And your, &c. that in pursuance of the said order, the said sum of £ was by the time therein directed, paid into the bank with the privy of the Accountant-General, and was afterwards laid out by him in the purchase of £ 3 per cent. consolidated bank annuities, which are now standing in the name of the Accountant-General, in trust in this cause, together with a sum of £ in cash, which hath arisen from the dividends thereof, as in and by the said original bill, &c. And your Orator sheweth, that some proceedings have been had before the said Master to whom this cause stands referred, but no general report hath yet been made in the said cause; and that the said J. A. the Plaintiff, lately, and on or about, &c. departed this life, having first duly made and published his last will and testament in writing, bearing date, &c. and a codicil thereto, bearing date, &c. and thereby appointed M. C. and W. W. executors thereof. And your Orator sheweth, that the said M. C. and W. W. have renounced the probate of the will of the said Plaintiff, and declined to act in the trusts thereof, and that your Orator hath obtained letters of administration with the will annexed, of the goods, chattels, right and credits of the said J. A. to be granted to him by and out of the proper Ecclesiastical Court, and hath thereby become, and now is his legal personal representative. And your, &c. that the said suit and proceedings having become abated by the death

death of the said J. A. your Orator is, as he is advised, as the personal representative of the said J. A. entitled to have the said suit and proceedings revived against the said Defendant G. T. W. and the said accounts by the aforesaid order, directed, prosecuted, and carried on, and to have the said cause put in the same state and condition as the same was in previous to the death of the said J. A.

Prayer.

To the end therefore, that the said Defendant may answer the premises.

And that the said suit and proceedings which so became abated as aforesaid, may stand revived, and be in the same plight and condition as the same were in at the time of the death of the said J. A. or that the said Defendant may shew good cause to the contrary May it please, &c.

*Pray Subpoena to revive
against G. T. W.*

Bill of Revivor upon Death of a Defendant.

That some time in or about term , L. P. now deceased, exhibited his original bill of complaint into this honorable Court, against S. N. and E. his wife, &c. &c. stating, as therein is stated, and praying that the, &c.

That the said S. N. and E. his wife, being duly served with process, appeared and put in their answers to the said bill, but before any further or other proceedings were had in the said cause, the said L. P. departed this life intestate, leaving R. P. her son and heir at law, who after her decease duly administered to her, and thereby became her legal personal representative.

That the said suit and proceedings having become abated by the death of the said L. P. the said Plaintiff exhibited his bill of revivor in this honorable Court, praying that the said suit and proceedings might be revived against him, and by an order of the Court the same were accordingly revived.

That all the said Defendants, together with Plaintiff W. H. P. having put in their answers to the said bill, the same came on to be heard before his Honor the late Master of the Rolls, on or about, &c. when his Honor did order and decree, as therein is particularly stated, and various orders, reports and other proceedings were had in the said cause.

That before any further or other proceedings were had in the said cause, the said S. N. departed this life, having first duly made and published his last will and testament in writing, dated, &c. and thereof appointed his wife E. N. and the Defendant T. R. executrix and executor thereof, who duly proved the said will in the proper Ecclesiastical Court, and took upon themselves the burthen of the execution thereof, and the
said

said E. N. hath since also departed this life, leaving Defendant T. R. her surviving, and who is now the sole personal representative of the said S. N. and as such, entitled to the principal sum of £ and interest due from the said G. H. to the said S. N. and secured by way of mortgage upon his the said G. H.'s share of the said estate and premises in the pleadings mentioned, for a term of years, and said suit and proceedings having become abated by the death of the said S. N. Plaintiff is advised that he is entitled to have the same revived against the said T. R. as his surviving executor.

Prayer.

Therefore, that the said suit and proceedings which became so abated by the death of the said S. N. may stand and be revived against the said T. R. and be in the same plight, state and condition, as the same were in at the time of the abatement thereof. And that Plaintiff may have the benefit thereof, or that the said Defendant T. R. may shew cause why the said suit and proceedings should not be so revived, and that the same may be revived accordingly.

*Bill of Revivor upon the Marriage of Female Plaintiff,
stating Exceptions and Amendments, &c.*

Humbly complaining, &c. that on or about, &c. your Oratrix by her then name of E. M. exhibited her original bill of complaint in this honorable Court, which was amended against W. M. as Defendant thereto, thereby stating such several matters and things as are therein for that purpose more particularly mentioned and set forth, and praying, &c. And your, &c. that the said several Defendants being duly served with process of *Subpoena*, severally appeared, and put in their answers to the said original bill, as in and by, &c. And your, &c. that your Oratrix took several exceptions to the answer put in by the said Defendant W. M. to the said original bill, and which said exceptions were upon agreement, allowed by the Master, to whom the same were referred. And your, &c. that your Oratrix afterwards obtained an order of this honorable Court, to amend her said original bill, and that the said Defendant W. M. might answer the said amendments at the same time that he answered the said exceptions. And your, &c. that before the said W. M. had put in his answer to the said exceptions or any further proceedings were had in the said suit, and on or about the, &c. your Oratrix intermarried with your Orator W. M. whereby the said suit and proceedings became abated. And your Orator and Oratrix are advised that they are entitled to have the same revived, and to be put in the same plight and condition as the same were in at the time of the abatement thereof.

Prayer.

To the end therefore, that the said suit and proceedings which so became

came

came abated as aforesaid, may stand revived and be in the same plight and condition as the same were in at the time of such abatement. May it please, &c.

J. L.

Bill of Revivor against Heir at Law of a Mortgagor entitled to Equity of Redemption against real Estates.

Humbly, &c. that, on or about, &c. the said filed his original bill in this honorable Court against , since deceased, as Defendant thereto, thereby stating such several matters and things, as in the said original bill of complaint, are for that purpose more particularly mentioned and set forth, and praying, &c. And your, &c. that the said T. H., being duly served with process, appeared to the said original bill, and put in his answer thereto; and the said cause being at issue, the same came on to be heard before his Honor the Master of the Rolls, in the absence of your Lordship, when the Court was pleased to order and decree, &c. And your, &c. that before any further proceedings were had in the said suit, and, on or about, &c. departed this life, having first duly made and published his last will and testament, in writing, bearing date, &c. and thereby appointed executrix and executors of his said will, and having afterwards made and published a codicil to his said will, bearing date, &c. whereby he revoked the appointment of the said to be his executors, and appointed your Orators to be his executors, with your Oratrix, in the place and stead of the said . And your Orators and Oratrix duly proved the said will and codicil in the Prerogative Court of the archbishop of C., and thereby became the legal personal representatives of the said . And your, &c. that the said suit having become abated by the death of the said , your Orators and Oratrix, on or about, &c. filed their bill of revivor in this honorable Court against the said , thereby stating to the effect aforesaid, and praying, &c. And your, &c. that the said suit and proceedings were accordingly duly revived by an order of this honorable Court, bearing date, &c. as in and by, &c. And your, &c. that some proceedings have been had by the said Master to whom this cause stands referred, but no report hath yet been made thereon; and that, on or about , the said late Defendant departed this life, leaving his heir at law, and without having devised, or in any manner disposed of the equity of redemption of the said mortgaged premises. And your, &c. that the said suit having become abated by the death of the said late Defendant, your Orators and Oratrix are, as they are advised, as such executors and executrix as aforesaid, entitled to have the said suit and proceedings revived against the said , as the heir at law of the said , and to have the said decree, and other proceedings had thereon, prosecuted and carried into full effect against the said , as they could or might have had if the said late Defendant had been still living.

Prayer.

Prayer.

To the end therefore that the said may shew cause, if he can why the said suit and proceedings therein should not stand and be revived against him as such heir at law of the said late Defendant as aforesaid, and be in the same plight and condition as the same were in at the time of the abatement thereof; and that the said suit and proceedings had therein may stand and be revived accordingly. May it please, &c.

*In the Exchequer.**Bill of Revivor against personal Representative of a Defendant, who died before putting in Answer to original Bill.*

Humbly complaining, sheweth unto your Honors, your Orator E. B., of, &c. debtor, &c. that in or about vacation your Orator exhibited his original bill of complaint in this honorable Court against, &c. and that the said Defendants then, and for some time previous thereto, were occupiers of lands therein, and had had various titheable matters growing, arising, and produced on their said lands which they had subtracted and withheld from your Orator, and thereby praying, &c. as in and by, &c. And your Orator, &c. that all the said Defendants appeared to the said bill of complaint, and that the said J. B. and W. H. appeared and put in their answers thereto, but that the said T. F. had departed this life intestate, on or about the before any further proceedings were had in the said cause, without having put in any answer to the said bill of complaint, whereupon the said suit and proceedings became abated as to him. And your, &c. that J. F., of , the father of the said T. F. hath procured letters of administration of the personal estate and effects of the said T. F. to be granted to him by the proper Ecclesiastical Court, and hath possessed the personal estate and effects of the said T. F. to a considerable amount, and sufficient to pay the debts and funeral expenses of the said T. F., and is thereby become, and now is, his legal personal representative; and your Orator is advised he is entitled to have the said suit revived against the said J. F., and that the same be in the same plight and condition as it was at the time of the abatement thereof by the death of the said T. F., and that the said J. F. ought to answer the said original bill of complaint, and ought either to admit assets of the said T. F. sufficient to satisfy your Orator's demands claimed by the said original bill, or to discover and account for his personal estate, as is usual in such cases.

Inquiry.

To the end therefore that the said suit and proceedings may stand and be revived, and be in the same plight and condition as the same was at the time of the said abatement thereof; and that the said J. F. may, upon

upon his oath, and according to the best of his knowledge, remembrance, information, and belief, full, true, and perfect answer make, to all and singular the matters and things in the said original bill stated, and that he may either admit assets of the said T. F. possessed by him sufficient to answer and satisfy the demands of your Orator, or that he may, in manner aforesaid, answer and set forth a full, true, and just account of all and singular the personal estate and effects which the said Testator was possessed of, interested in, or entitled to at the time of his death, and all the particulars whereof the same consisted, the natures, kind, quantities, qualities, full, true, and utmost value of all and singular such particulars, and whether all, or some, and which of such particulars have not, and when, been possessed by the said Defendant, or by any person or persons, by his order or for his use, and how and in what manner, and when, and where, and by whom, and to whom, and for how much the same, and each and every part and parts thereof have or hath not been sold and disposed of, and whether any, and what part or parts thereof, and to what value and amount, now remain undisposed of.

Prayer.

And that the said suit and proceedings, so abated as aforesaid, may be revived and be in the same plight and condition as the same were at the time of the abatement thereof, or that the said Defendant J. F. may shew good cause to the contrary; and that your Orator may have the benefit of the said suit, and may have the same relief against the said Defendant, as is prayed by the original bill of complaint; and that if the said Defendant doth not admit assets of the said T. F. possessed by him sufficient to answer the said demands of your Orator against the estate of the said T. F.; that an account may be taken of the personal estate and effects of the said T. F.; which have been possessed, got in, or received by the said Defendant, or by his order, or for his use, or which, without his wilful default, might have been received, and that the same may be applied in discharge of such sum of money as may appear to be due and owing to your Orator from the estate of the said T. F., in respect of the matters in the said bill of complaint mentioned. May it please, &c.

Bill of Supplement, in the Nature of a Bill of Revivor.

Humbly complaining, shew unto your Lordship, your Orators and Oratrix, T. L. executors and executrix, and trustees named and appointed in and by the last will and testament, and codicil thereto, of J. H. late of, &c. esq. that on or about the, &c. said J. H. filed his original bill of complaint

complaint in this honorable Court against, &c. as Defendant thereto, thereby stating such several matters and things, as in the said original bill of complaint are for that purpose more particularly mentioned and set forth, and praying, &c. And your, &c. that the said T. H. being duly served with process, appeared to the said original bill, and put in his answer thereto, and the said cause being at issue, the same came on to be heard before his Honor the Master of the Rolls, in the absence of the then Lord High Chancellor, when the Court was pleased to order and decree (*set forth decree*). And your, &c. that before any further proceedings were had in the said suit, and on or about the day of the said J. H. departed this life, having first duly made and published his last will and testament in writing, bearing date on or about the, &c. and thereby appointed your Oratrix and sir S. L. and J. G. C. executrix and executors of his said will, and having afterwards made and published a codicil to his said will, bearing date on or about, &c. whereby he revoked the appointment of the said sir S. L. and J. G. C. to be his executors, and appointed your Orators to be the executors of his said last will and testament, with your Oratrix, in the place and stead of the said sir S. L. and J. G. C., and your Orators and Oratrix duly proved the said will and codicil in the Prerogative Court of the archbishop of C. and thereby became the legal personal representatives of the said J. H. And your, &c. that the said suit, having become abated by the death of the said J. H. your Orators and Oratrix, on or about, &c. filed their bill of revivor in this honorable Court against the said J. H. thereby stating to the effect aforesaid, and praying, &c. And your Orators and Oratrix shew, that the said suit and proceedings were accordingly duly revived, as in and by, &c. And your, &c. that some proceedings have been had before the Master, to whom this cause stands referred, but that no report hath yet been made thereon, and that on or about, &c. the said late Defendant J. H. departed this life, leaving W. H. of, &c. one of the Defendants hereto, his heir at law. But your Orators and Oratrix shew that R. L. of, &c. and B. J. of, &c. two other of the Defendants, hereto allege, that under and by virtue of the last will and testament of the said J. H. they the said last named Defendants are entitled to the equity of redemption of the said mortgaged premises. And your, &c. that the said suit, having become abated by the death of the said late Defendant J. H. your Orators and Oratrix are, as they are advised, entitled to revive the said suit and proceedings, in case it shall appear that the equity of redemption of the said mortgaged premises hath descended to him, or otherwise to have the benefit of the said suit and proceedings against the said R. L. and B. J. if it shall appear that they are such devisees as aforesaid; to the end, therefore, that the said W. H. R. L. and B. J. may, upon their several and respective corporal oaths, and according to their several and respective knowledge, remembrance, information, and belief, full, true, and perfect answer make to all and singular the matters and things aforesaid, and that as fully and particularly as if the same were here repeated, and they thereunto distinctly interrogated. And that in case it shall appear that the equity of redemption of the said mortgaged premises descended upon the death of the said T. H. to the said W. H. then that the said suit and proceedings therein may stand and be revived against the said W. H. and be in the same plight and condition as the same were in at the

the time of the abatement thereof. But in case it shall appear that the said equity of redemption was devised to the said R. L. and B. J. then that the said decree, made on the hearing of this cause, may be prosecuted and carried into full effect against them the said R. L. and B. J. in the same manner as the same might have been prosecuted against the said late Defendant, T. H. and that all necessary directions may be given for effectuating the several matters aforesaid. May it please, &c.

J. L.

Bill of Revivor and Supplement, upon the Death of one Plaintiff, and upon a Defendant becoming a Bankrupt.

Humbly complaining, shew unto your Lordship, your Oratrices and Orators, S. P. of, &c. E. U. of, &c. R. A. of, &c. and G. T. W. and A. his wife, that on or about the day of , your Oratrices and Orators, together with J. A. the elder, gentleman, since deceased, exhibited their original bill of complaint in this honorable Court, against J. A. of, &c. S. A. of, &c. J. K. of, &c. &c. three of the Defendants hereinafter named, thereby stating such matters and things as are therein for that purpose more particularly mentioned and set forth, and praying that, &c. And your, &c. that all the said Defendants, being duly served with process, appeared to the said bill, but that only the Defendants, S. A. J. R. and J. K. have put in their answers thereto. And your, &c. that by an order, bearing date, &c. it was ordered, &c. that Defendants should pay into the bank the money admitted by their answer to be due; as in and by the said bill, answer, and proceedings, now remaining as of record in this honorable Court, &c. And your, &c. by way of supplement, that in or about, &c. a commission of bankrupt, under the great seal of Great Britain, was duly awarded and issued against the said Defendant, J. A. the younger, and that the said Defendant was thereupon duly found and declare a bankrupt, and the usual assignment of his personal estate and effects, and a bargain and sale of his real estate was made and executed to the said complainant, J. A. the elder, and R. B. of, &c. another Defendant hereto, who were duly chosen assignees by the creditors for that purpose, as in and by, &c. And your, &c. that on, &c. the said complainant, J. A. departed this life, leaving the said Defendant J. A. the younger, his heir at law, and having first duly made and published his last will and testament in writing, bearing, &c. and thereby appointed M. C. and W. W. the executors thereof, and the said M. C. and W. W. having renounced the probate of the said will, letters of administration, with the said will annexed, bearing date, &c. have been granted by the proper Ecclesiastical Court to the said Defendant J. A. the younger, who hath thereby become, and now is, the personal representative of the said complainant, J. A. And your, &c. that the said Defendant R. B. as the surviving assignee of the said Defendant J. A. the younger, under the commission of bankrupt awarded against him as aforesaid, claims to be entitled to all right and interest of the said Defendant J. A. the younger, under the will of the said Testator K. A., and that the said said and proceedings

ceedings having become abated by the death of the said complainant J. A. your Oratrixes, &c. are advised that they are entitled to have the same revived against the said Defendant J. A. the younger, as the personal representative of the said complainant J. A. and to prosecute the same against the said R. B. as the surviving assignee of the said Defendant J. A. the younger.

Prayer.

To the end, therefore, that the said suit and proceedings, which so became abated as aforesaid, may stand revived, and be in the same plight and condition as the same were in at the time of such abatement, and that your Orators may have the benefit of the said suit and proceedings against the said R. B. as the assignee of J. A. the younger. And for further relief, &c.

J. L.

Bill of Revivor and Supplement, for the Purpose of prosecuting Decree for an Appointment of Receiver, and for various Accounts.

States, that the Plaintiff, in or about term , by S. H. esq. his next friend, exhibited his original bill of complaint in this honorable Court against, &c. therein stating the will of the said Testator G. B. so far as, &c. thereby praying that, &c. And your Orator further sheweth, by way of supplement, that the said first named Testator, by his last will and testament, stated in the said Plaintiff's said original bill; also, amongst other things, as to all other his leasehold messuages, &c. he gave, &c. (*state necessary part*). And by a codicil to his said will, bearing even date therewith, the Testator revoked the bequest of his leasehold house in, &c. which, by his said will, he had given, &c. and directed, &c.

That the said Testator, G. B. the elder, departed this life soon after making and publishing his said last will and codicil thereto, without revoking or altering the same, or either of them, save as the said will is altered by the said codicil, and that upon, or soon after the said Testator's decease, the said G. B. the younger, and S. H. two of the executors, only proved the said will and codicil in the Prerogative Court of the archbishop of C. and took upon themselves the execution thereof.

That the said Testator, G. B. the elder, was, at the time of his decease, possessed of, interested in, and entitled unto a very large and considerable personal estate, consisting of, &c. and other effects, to a considerable amount or value in the whole; and that the said T. H. having left the whole management of the said Testator's affairs to the said G. B. the younger, his said co-executor, the said G. B. the younger, under and by virtue of the said will and codicil, and the probate thereof, possessed, got in, and received all or the greatest part of the said Testator's debts and monies, outstanding, due, and owing to him at the time of his decease, and sold and disposed of all his stock and other effects, and received the monies arising thereby, and thereout paid and discharged all and singular the said Testator's funeral expenses, debts, and legacies; and

and he the said G. B. the younger also, from time to time, received the rents and profits of the said leasehold estates and premises, and the interest and dividends of his personal estate, out at interest, and applied one moiety thereof to his own use, and the other moiety thereof he laid out in the funds, at interest, in the joint names of himself and the said R. B. for the benefit of Plaintiff, and there now remains standing in the joint names of, &c. on that account, the sums of £ 4 per cent. Bank Annuities, and £ , new S. S. A.

That at the time of the decease of the said G. B. the younger, there was also a considerable sum of money coming due and owing from him in respect of what he had received on account of the rents and profits of the estates devised by the said will, in trust for the benefit of Plaintiff, as the receiver appointed thereof, in manner aforesaid; as also on account of the rents and profits received before he was appointed receiver.

That the said G. B. the younger died, leaving the said S. H. his co-executor, surviving, who thereupon became, and is the surviving legal personal representative of the said Testator, G. B. the elder; and he, the said S. H. together with the said G. R. are the surviving trustees of the said Testator's residuary personal estate, upon the trusts aforesaid.

That the said G. B. the younger, in his life-time, duly made and published his last will and testament in writing, bearing date, &c. and thereby appointed his wife Z. A. B. the said S. H. and G. R. and T. D. executrix and executors of his said will, and that the said S. H. G. R. and T. D. have, since the death of the said G. B. the younger, duly proved his said will in the proper Ecclesiastical Court, and taken upon themselves the execution thereof, and thereby became, and are the legal personal representatives of the said Testator, G. B. the younger.

That the said Testator G. B. the younger, died possessed of, interested in, and entitled unto, a very considerable personal estate, and that they his said executors, or some or one of them, or some person or persons by their, or some or one of their order, or for their, or some or one of their use, have or hath possessed, got in, and received the same, to a very large amount, and more than sufficient to pay and discharge all his funeral expenses, &c. and particularly to answer and satisfy the demands of Plaintiff thereon, in respect of the matters aforesaid; and no account hath as yet been rendered or taken of the said Testator G. B. the elder's residuary personal estate, a moiety whereof belongs to the Plaintiff, and a very considerable sum of money now remains due to the Plaintiff from the estate of the said G. B. the elder, in respect thereof, and so much thereof as hath been possessed or received by the said G. B. the younger, ought to be ascertained and paid out of the assets of the said G. B. the younger, possessed and received by his said executors as aforesaid, as also what is due from him in respect of the rents and profits as aforesaid.

That the residuary personal estate of the said G. B. the elder, yet remaining unaccounted for on account, ought now to be taken, and of the application and disposition thereof, and that the clear residue thereof ought to be ascertained, and one moiety thereof set apart and appropriated for the use and benefit of the Plaintiff, under and by virtue of the said will of the said Testator G. B. the elder; and that an account ought also to be taken of the rents and profits of the said real estates belonging

belonging to the Plaintiff, possessed or received by the said G. B. the younger, in his life-time as aforesaid.

That Plaintiff is also, as he is advised, entitled to have the suit and proceedings, which so became abated as aforesaid, revived, and to have the same benefit thereof against the said Defendants, the personal representatives of the said G. B. the younger, as Plaintiff could or might have had against the said G. B. the younger had he been living. And that Plaintiff is entitled to prosecute the decree made in the said cause, and that some proper person ought to be appointed by this honorable Court to be a receiver of the rents and profits of the aforesaid devised real estates, in the place and stead of the said G. B. the younger, deceased, with the usual and necessary directions in that behalf. All which, &c. To the end, &c.

Prayer.

That the said suit and proceedings which so became abated as aforesaid, may stand revived and be in the same plight and condition as the same were in at the time of the death of the said G. B. the younger, and that Plaintiff may have the same benefit thereof against the said Defendants S. H., &c. &c. as he could or might have had against the said G. B. the younger, had he been living. And that the said decree made on the hearing of the said cause, may be directed to be prosecuted and carried into full effect, and that some proper person may be appointed receiver of the rents and profits of the aforesaid devised real estates, with the necessary and usual directions in that behalf, in the place and stead of the said G. B. the younger, deceased. And that an account may be decreed to be taken of the personal estate and effects of the said G. B. the elder, deceased, possessed or received by the several Defendants S. H., &c. or any or either of them, or by the said G. B. the younger, deceased, in his life-time, or by any other person or persons by their, or any or either of their, or for their, or any or either of their use, on account, and of the application and disposition thereof. And that a proper person may be appointed receiver of the rents and profits of the leasehold estates of the said G. B. the elder, and to collect and get in his personal estate outstanding, with the usual and necessary directions in that behalf. And that an account may be also taken of the funeral expenses, debts, and legacies of the said G. B. the elder, and that the same, if any remains unpaid, may be paid and discharged in a due course of administration, and that the clear residue or surplus of the personal estate of the said Testator G. B. the elder may be ascertained, and that one full moiety thereof may be set apart and appropriated for the use and benefit of Plaintiff, and may be ordered to be paid into Court, and to be preserved and improved for his use and benefit during his minority. And that an account may be decreed to be taken of what was received and appropriated, or set apart and laid out in the purchase of funds by the said G. B. the younger, either on account of, or from, or in respect of the Plaintiff's part or share of and in the residuary personal estate of the said Testator G. B. the elder, or on account of,
or

or from the rents and profits of the Plaintiff's said real estates. And that an account may be taken of the rents and profits of the Plaintiff's said estates possessed or received by the said G. B. the younger in his life-time, or by any one by his order, or for his use, and that the said stocks or funds so purchased with the Plaintiff's money may be ordered to be transferred into the name of the Accountant-General of this Court, in trust for the Plaintiff. And that the said Defendants, the personal representatives of the said Testator G. B. the younger, may be decreed to account for and pay, to or for the use of the Plaintiffs, what shall appear to have been coming due to him from the estate of the said G. B. the younger at the time of his decease, and that they may either admit assets of the said Testator G. B. the younger, come to their hands, sufficient to answer and satisfy such the aforesaid demands of the Plaintiff therein, or that they may be decreed to account for the personal estate and effects of the said G. B. the younger deceased, and for the application and disposition thereof in the usual manner. And that all proper and necessary directions may be given for effecting the several matters aforesaid. And for general relief.

SECT. II.—CROSS BILL.

A CROSS BILL is a bill brought by the Defendant against the Plaintiff in a former bill depending, touching the matter of such bill, or the facts set forth in the Defendant's answer to the Plaintiff's original bill.

A cross bill should state the original bill and proceedings thereon, and the rights of the party exhibiting the bill, which are necessary to be made the subject of cross litigation, or the ground on which he resists the claim of the Plaintiff in the original bill, if that is the object of the new bill. But a cross bill being generally considered as a defence, or as a proceeding to procure a complete determination of a matter already in litigation in the court, the Plaintiff is not, at least as against the Plaintiff in the original bill, obliged to show any ground of equity to support the jurisdiction of the court. *Harrison's Chancery*, 41, 89.

A Cross Bill where a Person is sued to account, exhibited by the Defendant against the Complainants, to produce Papers, and discover who hath acted in an Executorship.

Humbly, &c. sheweth, &c. your Orator A. B. of, &c. that C. D. late of, &c. was in his life-time seised and possessed of a very considerable estate, both real and personal, and being so seised and possessed, did, about make his last will and testament in writing, and thereby devised and bequeathed unto three of his children, viz. P. D., J. D., and T. D., several legacies and bequests, and also to his daughter E. D. the sum of, &c. and did also by the said will appoint, that whereas he was possessed of several houses in, &c. by lease, which were burnt down in the dreadful fire which happened, &c. That his executors thereinfter named should rebuild the same, and the profits thereby afterwards arising to be equally divided, to and amongst his said three children, and the survivors of them, share and share alike; and did further direct, that whereas he had £ in the East India company's stock, that the same should not be taken out by his executors for years after his decease; and in and by the said will he did desire, that his executors should, &c. as by the said last will of the said C. D., had your Orator the same to produce, more fully would appear. And afterwards, about, &c. the said C. D. died, possessed of a great personal estate, consisting in ready money, and monies out upon securities; and your Orator further sheweth unto your Lordship, that afterwards your Orator and the said E. F. and P. D. proved the said will, but your Orator never possessed himself of any of the personal estate of the said C. D., other than the lease of the houses in, &c. which he rebuilt, and received the rents, issues, and profits of the same, great part of which he expended in maintaining and educating the children of the said Testator, and other part thereof in building and repairing the said houses, and other monies he paid to the said P. D., to be employed, &c.; and your Orator did not any further act in the said executorship than as aforesaid. And your Orator further sheweth unto your Lordship, that the said P. D. at his father's death, being about years old, and of sufficient discretion to manage the said estate, your Orator, with the said other executor E. F. was content, and were both very willing that the said P. D. should be the principal acting executor of the said will, to the intent he might be the better instructed in the management of the said estate, and make the best improvement thereof for the benefit of himself and his other brothers and sisters, which so nearly concerned him; and this they did the rather, for that they looked on the said P. D. to be very careful and trusty, and it might be as well an ease to them, as also a good employment for the said P. D. who had little or no other employment of his time; and besides, your Orator being very aged and infirm, was unable to meddle in the said executorship, nor did he meddle therein otherwise than aforesaid, by means whereof the said P. D. did altogether act in the said executorship, by receiving and paying all sums of money that any ways concerned or related to the said executorship, save only as to the said houses in, &c. which by reason of the nearness thereof to your Orator's

Orator's habitation, who then lived and still lives in one of them, he was willing to undertake the management of them as aforesaid. And your Orator further sheweth unto your Lordship, that according to the directions of the said will, he did several times make up his accounts in writing, and deliver them to his executors of the said will, all which accounts so delivered in by your Orator as aforesaid, were true and just accounts of all the actings and dealings, and of all the receipts and payments about or in relation to the personal and other estate of the said C. D., as by the said accounts, had your Orator the same to produce, more fully would appear; and which accounts are in the hands of the said G. H. the surviving executor of the said will, the other two being since dead, or in the hands of some other trustee for him, and where he may have access to the same; and your Orator can give no other account of those sums, or the same again, unless he had those accounts, or true copies thereof. And your Orator sheweth, that the said P. D. about, &c. made his last will and testament in writing, and thereby did devise, &c. and did also give and bequeath to, &c. and of the said will made your Orator, the said E. F., &c. &c. executors, and soon after died, possessed of a very considerable estate, both real and personal, as in and by the said will, had your Orator the same to produce, more at large appeareth; and after the said P. D.'s death, your Orator joined with the said E. F., &c. &c. in the probate of the said will, in the Prerogative Court, but never intermeddled more with the said executorship, or with the estate of the said P. D., but the same hath been wholly managed by the said E. F., who hath ever since the death of the said P. D. received and paid all sums, and done all other acts relating to the said P. D.'s estate, and likewise to the said C. D.'s estate, whereby he hath gotten into his hands large sums of money, and other goods and chattels of a great value. But now so it is, may it please your Lordship, that the said E. F., &c. &c. combining with, &c. by cunning insinuations made the said, &c. believe, that great part of the estate of C. D. and P. D. is in the hands of your Orator, although they well know the contrary, and that upon a fair account the said estates will be much indebted to your Orator, besides several sums, not mentioned in such accounts, lent by your Orator unto the said P. D., which your Orator hopes he may retain in his hands, or be reimbursed the same by the said E. F., who hath got all the estate of the said P. D. in his hands; they the said E. F. &c. &c. have either caused or procured the said, &c. to exhibit a bill in this honorable Court against your Orator, to call him to account for his transactions in the said estate, thereby intending to charge your Orator with the whole estates of the said C. D. and P. D. though they well know; and so the truth is, that your Orator never intermeddled with any part thereof, save only the said estate in, &c.; and the better to colour their pretences, have likewise consented and procured themselves to be made parties to the said suit, and that there may be little or no prosecution at all against them, the said, &c. therein, or if any, the same is only for form's sake, and the charges thereof to be laid upon the said E. F. &c. &c. and the same suit was wholly prosecuted by the contrivance of the said E. F. &c. or one of them, on purpose to take off the burthen that lay upon them, to account for their transactions in the said several estates, by charging your Orator, notwithstanding the said P. D. was the only acting executor, and the only person

person who used to receive and pay any money on account, any other business concerning the said estate of his father C. D. and that the said E. F. hath, being the like acting executor in the estate of the said P. D. who, as executor, is chargeable with the acts and defaults of P. D. in and about the management of his father's estate; and your Orator, abating the receipt of the, &c. rents, never acting in the management of either of the said estates, unless it were, by implicit consent, to confirm the actions of the said P. D., and also by the said bill, they design to charge your Orator solely for all the joint actions of the said P. D. and E. F. with your Orator, touching the said C. D. his estate, who, if any joint neglect were, ought to be equally contributory to the same; and likewise, by the said bill they charge your Orator to give an account of all the receipts and disbursements by him in the said estates, for which he accounted to the said executors, well knowing that he cannot possibly make an account of such his receipts and disbursements, without sight of such his former papers of accounts, or true copies thereof, in regard he hath no copies of his own as aforesaid; and the said accounts, by the combinations aforesaid, are detained and concealed from your Orator, who hath no means to discover the said accounts, or to have copies thereof, or to defend himself against the said unjust proceedings of the said confederates, or to be relieved in the premises, but by the aid and assistance of this honorable Court.

Prayer.

To the end therefore that your Orator may be the better enabled to make such accounts as shall be required from your Orator, he humbly prays that the said confederates may set forth the said accounts so delivered in by your Orator as aforesaid unto the executors, and that such of them as shall be discovered to have the same, or in the custody of any other to their, or any of their use, may upon oath deliver to your Orator true and authentic copies thereof; and also that they the said confederates may severally set forth, whether the said P. D. was not the chief acting executor of the said Testator C. D., and whether your Orator to their, or any of their knowledge, ever acted in any thing touching the said estate without the presence or consent of the said P. D., save only about the estate in, &c.; and whether such actings of your Orator with the said P. D. were not only to confirm the acts of the said P. D., and if otherwise, that then the said confederates may particularize, so that your Orator may not be chargeable with other men's actions; and that they the said confederates may also set forth whether the said E. F. hath not been the only person that hath managed the said P. D.'s estate as executor, or who hath been so; or whether your Orator hath any ways intermeddled therein, otherwise than by joining in the probate of the will of the said P. D. with them the said, &c. and also that all the confederates may true answer make to all and singular the premises, and your Orator be relieved according to equity and good conscience.

W. C.

SECT. III.—BILL OF REVIEW.

A **BILL** of review is, where, after a cause is heard and the decree signed, complaining of some error in law, or mistake appearing in the body of the decree, or when some new matter is discovered that was not discovered at the time of making the decree.

The bill of review is in nature of a writ of error at common law ; it recites shortly all the proceedings, with the decree : and here it is to be noted, all the decrees are to be enrolled from the original proceedings ; they are not enrolled from the register's recitals of the decree, because the six clerk certifies he has examined them with the records, and that they agree together.

If any new deed is found out, or a new discovery since the hearing, which the party had not knowledge of at the hearing, and has since then come to the knowledge thereof, he must annex an affidavit of the matter, and pray an answer from the adverse party, and he must, upon filing his bill of review, serve the party with a *subpœna ad revivendum*.

A bill of review cannot assign for error that any of the matters decreed are contrary to the proofs in the cause, but must shew some error appearing in the body of the decree, or new matter discovered since the decree made. 1 *Vern.* 117.

On a bill of review, the cause of review must arise and appear upon the case as stated in the decree, and must be
admitted

admitted as there stated, and though the fact whereon the Court gave judgment was mistaken, yet that is no ground for a bill of review after a decree enrolled, but the fact must be admitted true, and the decree enrolled is matter of record, and can be tried only by the record ; but in mistaking the fact, the proper course was to have gotten the cause re-heard before the decree had been signed and enrolled.
2 Freem. 182.

Bill to review, revise, and answer.

Humbly complaining, sheweth unto your Lordship, your Orators, A. B. of, &c. and C. D. of, &c. that, &c. (*setting forth the former bill as in the decretal order,*) and thereupon the Defendants answered, and the Plaintiff replied, and witnesses were examined, and their depositions published, &c. that the cause came on to hearing, and was heard and decreed by the Lord Chancellor, C., after which, &c. petitioned for a rehearing to the Lord Chancellor, &c. and the cause was accordingly reheard, and a decree for reversal was made by his Lordship, (*set out the decree,*) and that decree is signed and enrolled in this Court; but your Orators do aver and say, that they are aggrieved by the said last decree, and that they ought not to be bound thereby, nor should any such decree have been made or pronounced against your Orators; neither ought your Orators to pay, &c. as by the said decree is appointed; and that the same decree is erroneous, and ought to be reversed; and for error do, according to the course of this honorable Court, assign the error therein as followeth: first, your Orators say, and hope to maintain, that, &c. which is altogether uncertain, &c.; secondly, that, &c. which appears by, &c. to be fraudulent and corrupt; thirdly, that, &c. was not alive at the time of the said decree made in the said cause against your Orators, and so could not be bound by the said decree, and consequently your Orators ought not to be bound thereby; for all which said errors and imperfections in the said decree, your Orators have brought this their said bill of review, and humbly conceive they should be relieved therein. In consideration whereof, and for that there are divers other errors and imperfections in the said decree and proceedings, by reason whereof the same ought to be reviewed and reversed, and that the first decree made by, &c. ought to stand and be confirmed, &c.

Prayer.

To the end therefore that the said last decree, and all proceedings thereupon may be reviewed and reversed, added, &c. and that the said, &c. may answer the premises; and that your Orators may be relieved in all and singular the premises according to equity and good conscience, &c. may it please your Lordship to grant your Orators his Majesty's writ of subpoena, to revive and answer, directed to, &c. commanding them, &c.

SECT. IV.—BILLS TO CARRY DECREES INTO EXECUTION.

SOMETIMES from the neglect of parties, or some other cause, it becomes impossible to carry a decree into execution, without the farther decree of the court. (2 *Cha. Rep.* 123 and 2 *Vern.* 409.) This happens generally in cases where the parties having neglected to proceed upon the decree, their right under it becomes so embarrassed by a variety of subsequent events, that it is necessary to have the decree of the court to settle and ascertain them. Sometimes such a bill is exhibited by a person, who was not a party, nor claims under any party, to the original decree, but claims in a similar interest; or is unable to obtain the determination of his own rights, till the decree is carried into execution; or it may be brought by or against any person, claiming as assignee of a party to the decree, (1 *Cha. Ca.* 231. 3 *P. IV.* 197. 4 *Bro. P. C.* 168.)

A bill for this purpose is generally partly an original bill, and partly a bill in the nature of an original bill, though not strictly original; and sometimes it is likewise a bill of revivor or a supplemental bill, or both. The frame of the bill is varied accordingly. (*Mit.* 37 and 38).

Bill of Supplement by Infants against Trustees, &c. to prosecute Decree, and Defendants to be charged with Monies that they ought to have laid out.

Humbly complaining, shew unto your Lordship, your Oratrixes and Orator M. A. B. E. G. B. and G. D. B. all infants under the respective age of 21 years (that is to say) your Oratrix M. A. B. of the age of years or thereabouts, E. G. B. of the age of or thereabouts, and your Orator G. D. B. of the age of ; or thereabouts, by J. L. of , their next friend, that in or about term , your Oratrixes and Orator's mother, by her then name of M. B. together with W. B. and G. D. B. being all then infants under the age of 21 years, but who have all since attained that age by their next friend, exhibited their original bill of complaint in this honorable Court against sir J. M. bart. J. W. W. C. the younger, B. B. and F. I. since deceased, as Defendants thereto, thereby stating such several matters and things as are therein particularly mentioned and set forth, and praying that, &c. (*set out the prayer*). And your Oratrixes and Orator further shew unto your Lordship, that all the said Defendants being duly served with process, appeared and put in their answers to the said original bill, and the said cause being at issue, and witnesses having been examined therein, the same came on to be heard before the then Lord High Chancellor of Great Britain, on the day of , when his Lordship was pleased to declare the will of the said Testator W. B. dated the day of to be well proved, and that the same ought to be established, and the trusts thereof performed and carried into execution, and did decree the same accordingly. And it was ordered, &c. (*state order*). And your Oratrixes and Orator further shew unto your Lordship, that the said M. B. having intermarried with G. B. of D. in the county of B. esq. your Oratrixes and Orator's father, the said suit and proceedings so far as concerned the said M. became abated, and in consequence thereof, they, on or about the day of exhibited their bill of revivor in this honorable Court, praying that the same might stand revived, and be in the same plight and condition as the same were in at the time of the intermarriage of the complainant; and that the said decree made on the hearing of the said cause, might be directed to be prosecuted and carried into full effect, and that all proper and necessary directions might be given for effectuating the several matters aforesaid. And your Oratrixes and Orator further shew unto your Lordship, that W. B. and G. B. B. the complainants in the original bill, exhibited their bill of revivor in this honorable Court on or about the day of , against the said G. B. and M. his wife, stating their intermarriage, whereby the said suit and proceedings had become abated, so far as concerned the said M. B. and praying that the said suit and proceedings might stand and be revived against them the said G. B. and M. his wife, or that they might shew good cause to the contrary. And your Oratrixes and Orator further shew unto your Lordship, that by an order, bearing date on or about the day of your Lordship was pleased to order, that, &c. (the trustees were ordered to pay the sum therein mentioned, into the bank, to the account of M. B.)

And

And your Oratrixes and Orator further shew unto your Lordship, that in pursuance of the said order, the said sum of £ was paid into the bank with the privity of the Accountant-General, and was afterwards laid out by him in the purchase of £ 3 per cent. consolidated annuities, which are now standing in the name of the said Accountant-General in trust in this cause, to the separate use of the said M. B. as in and by the said original bill, answers, decree, bills of revivor, order and other proceedings now remaining filed as of record in this honorable Court, and to which your Oratrixes and Orator, for their greater certainty, crave leave to refer, will, when produced, more fully appear. And your Oratrixes and Orator further shew unto your Lordship, by way of supplement, that no settlement having been made previous to the marriage of the said G. B. and M. B. of the part or share of the said M. B. in the residuary estate of the said Testator W. B. the interest and dividends thereof, by the will of the said Testator became payable to the said M. B. for her sole and separate use during her life, and the principal thereof will be divisible after her death amongst such children of the said M. B. who being a son or sons shall live to attain the age or ages of 21 years, or being a daughter or daughters shall live to attain the age or ages of 21 years or be married, which shall first happen. And your Oratrixes and Orator further shew unto your Lordship, by way of supplement, that your Oratrixes and Orator are the only children of the said M. B. And your Oratrixes and Orator further shew, that the accounts of the real and personal estate of the said Testator, directed by the said decree of the day of have never in any manner been prosecuted, and that no part of the produce of the real or personal estate of the said Testator hath ever been paid into, or secured by this honorable Court, other than the aforesaid sum of £ 3 per cent. consolidated annuities, which is standing as aforesaid, in trust in this cause, to the separate account of the said M. B. And your, &c. that the said Defendants sir J. M. J. W. W. C. and B. B. upon, or soon after the death of the said Testator, possessed themselves of the personal estate and effects of the said Testator to a great amount, and the said Defendants also sold the real estates of the said Testator, or some parts thereof, and from the rents and produce of such real estates, possessed other large sums of money. And the said Defendants did, or but for their wilful default and neglect might, from time to time have laid out and invested the monies so received by them, in respect of the real and personal estate of the said Testator, in such manner that the part or share of the said M. B. therein, after making thereout a reasonable allowance for her maintenance and education, did or might have greatly accumulated. And your Oratrixes and Orator further shew, that they are, as they are advised, entitled to have the benefit of the said suit and proceedings, and to prosecute the said decree against the said several Defendants. To the end therefore, &c. *(the usual words of form preceding the interrogating part.)*

Interrogating Part.

Whether, at or about the time hereinbefore mentioned, or at some other time, and when, your Oratrixes and Orator's mother, by her then name of M. B., together with W. B. and G. B. B. did not exhibit their original bill

bill of complaint in this honorable Court against such persons as are hereinbefore in that behalf respectively as Defendants thereto, thereby stating such several matters and things, as in the said original bill particularly mentioned and set forth, and praying to the purport and effect hereinbefore set forth, or to some such, or the like, or some other and what purport and effect; and whether the said cause did not come on to be heard at or about the time hereinbefore in that behalf stated, or at some other time, and when; and whether such decree was not made therein, as hereinbefore in that behalf set forth, or to some such or the like, or some other, and what effect, and whether the said M. B. did not intermarry with the said G. B.; and whether, thereupon, the said G. B. and M. B. his wife, did not, at or about the time hereinbefore in that behalf stated, or at some other time, and when, exhibit their bill of revivor in this honorable Court, and thereby praying to the effect hereinbefore in that behalf stated, or to some such, or some other, and what effect; and whether the said W. B. and G. B. B. two of the complainants in the said original bill named, did not likewise exhibit their bill of revivor in this honorable Court at or about the time aforesaid, or at some other time, and when, thereby stating and praying to the purport and effect hereinbefore in that behalf set forth, so far as the same is herein set forth, or to some such or the like and what purport and effect; and whether at or about the time hereinbefore in that behalf stated, or at some other time, and when, such order, as hereinbefore in that behalf set forth, was not made in the said cause, or some other and what order, to such or the like, or some other and what effect; and whether any and what settlement was ever and when made, previous to the marriage of the said G. B. and M. B. of the part or share of the said M. B. in the residuary estate of the said Testator W. B. and if not, why not; and whether the interest and dividends of such residuary estate, by the will of the said Testator, or otherwise, and how, did not become payable to the said M. B. for her sole and separate use, during her life, or how otherwise; and whether the principal thereof will not become divisible after her death, in manner hereinbefore in that behalf stated, or how otherwise; and whether your Oratrixes and Orator are not the only children of the said M. B.; and whether the accounts of the real and personal estate of the said Testator, directed by the said decree of the day of , have ever, and when, in any, and what manner, been prosecuted; and whether any and what part of the produce of the real or personal estate of the said Testator hath ever, and when, been paid into, or secured by this honorable Court, other than the aforesaid sum of £ 3 per cent. consolidated annuities; and whether such sum of £ , or some other and what sum is not now standing as aforesaid, in trust in this cause, to the separate account of the said M. B. or how otherwise; and whether the said Defendants sir J. M. J. W. W. C. and B. B. or some, or one, and which of them, have not possessed themselves of the personal estate and effects of the said Testator to a great and what amount; and whether the said Defendants, or some, or one, and which of them, have not also sold the real estates of the said Testator, or some and what parts thereof, or how otherwise; and whether from the rents and produce of such real estates they, or some, or one, and which of them, have not possessed other large, and what sums of money; and whether the said Defendants have

have from time to time laid out and invested the monies so received by them, in respect of the real and personal estate of the said Testator, and if not, why not; and whether the part or share of the said M. B. in the real and personal estate of the said Testator, after making thereof a reasonable allowance for her maintenance and education, hath not, or but for the wilful default and neglect of the said Defendants, some or one, and which of them, might not, and in what degree, be accumulated; and whether your Oratrixes and Orator are not entitled to have the benefit of the said suit and proceedings, and to prosecute the decree against the said several Defendants.

Prayer.

And that the said Defendants may answer the premises; and that your Oratrixes and Orator may have the benefit of the said suit and proceedings, and may be at liberty to prosecute the said decree of the day of _____, so far at least as may be necessary to ascertain the accumulated part or share of the said M. B. in the produce of the real and personal estate of the said Testator; and that, in taking the accounts of the said real and personal estates of the said Testator, the said Defendants, the trustees, and executors, may be charged with such sums of money as have been, or but for the wilful default and neglect of the said Defendants, might have been accumulated by duly laying out and investing, pursuant to the will of the said Testator and the said decree, the monies which are, or ought to have been, from time to time, in the hands of the said Defendants, the trustees and executors; and that such further sum as, together with the said sum of £ _____, 3 per cent. consol. annuities, will make up the part or share of the said M. B. in the real and personal estate of the said Testator, may be paid into and secured by this honorable Court, for the benefit of your Oratrixes and Orator, or such of them as may eventually become entitled thereto; and that, for these purposes, all proper directions may be given; and that your Oratrixes and Orator may have such further and other relief in the premises as the nature of the case may appear to require, and to your Lordship shall seem meet.

*Pray Subpoena against Sir J. M. J. W.
W. C., B. B., W. B., G. B. B., G. B.
and M. B. his wife.*

J. L.

A Bill by an Administratrix for an Account, and to revive a Decree, and carry it into Execution.

Humbly complaining, sheweth unto your Lordship, your Oratrix, A. C. widow and relict of P. C. late of _____, in the county of _____ esq. deceased, and mother and administratrix of the goods and chattels, rights and credits, of P. C. deceased, who was eldest son and heir of the said P. C. your Oratrix's late husband, deceased, by your Oratrix, that some time in or about the _____ day of _____, your Oratrix and W. C. the younger son of the said P. C. your Oratrix's said late husband, deceased, by your said Oratrix, an infant, then under the age of _____, by your said Oratrix, his mother and next friend, exhibited this bill of complaint in this honorable Court, against the said P. C. as the eldest son and heir

of

of the said P. C. your Oratrix's said late husband, by your said Oratrix, he being then an infant under the age of twenty-one years, L. R. W. W. W. L. and G. C. and W. C. younger brothers of your Oratrix's said late husband, setting forth, amongst divers other matters and things, that previous to the marriage of your Oratrix with the said P. C. your Oratrix's said late husband, deceased, the said P. C. in consideration of the said marriage, and of your Oratrix's marriage portion, by certain articles, bearing date the day of , and made, or mentioned to be made between the said P. C. of the one part, and the said W. L. and your Oratrix of the other part, he the said P. C. did thereby covenant for himself, his heirs, executors, and administrators, immediately after the solemnization of such marriage, to settle the manor of , with the appurtenances, and divers other lands and hereditaments therein particularly mentioned, in the parishes of , and , in the said county of , to the use of himself, for life, without impeachment of waste, remainder to trustees, to support* contingent remainders, remainder to the use of the first and other sons of him, the said P. on the body of your Oratrix to be begotten, in tail male, with remainder to L. C. since deceased, brother of the said P. C. and all others, the brothers of the said P. C. according to their seniority successively, in tail male, with remainders to the right heirs of the said P. C., and also setting forth, that soon after the execution of the said articles, the said marriage took effect; and that in , the said P. C. your Oratrix's said late husband died, leaving your Oratrix, his widow, and the said P. since deceased, his eldest son, and the said W. C. his only children by the said marriage then living, having first duly made and published his last will and testament in writing, bearing date the day of , and therein taking notice of his said marriage articles, confirmed the same, save and except the uses to his brother, G. and his issue in tail, which he revoked, as therein is mentioned, and devised all his manors, houses, messuages, rectories, advowsons, lands, tenements, and hereditaments, and the reversion thereof, with all his estate therein, unto the said L. R. and W. W. their heirs and assigns, in trust for performance of the said marriage articles (save as before excepted), and for the intents and purposes therein, and in the said will set forth; and particularly that the said trustees, and the survivor of them, and the executors of such survivor, should have the sole direction of all his real estate, to let and set the same, and receive the rents, issues, and profits thereof, until one of his sons should attain the age of twenty-one years, and should apply the rents and profits of all his real estate, save such as should be applied in the maintenance and education of his said son P. C. or his younger son (in case he should survive him), for payment of all or part of the principal or interest of any mortgages or incumbrances upon his said estate, or any part thereof, and made your Oratrix sole executrix of his said will, who, after his death, duly proved the same, and took upon herself the burthen of the execution thereof; and further setting forth, and praying in and by the said bill to be relieved, as therein is prayed. And your Oratrix further sheweth unto your Lordship, that the said Defendants, being served with process, did appear to and put in their several answers to your Oratrix's said bill, and the said L. R. and W. W. L. G. C. and W. C. thereby severally and respectively admitted, that such articles were duly executed, and that such marriage was had, and that the Defendant, P. C.

since

since deceased, and the said Plaintiff, W. C. were the only issue thereof; and that the said Testator died in _____, having made such will as afore-said, and appointed thereof your Oratrix sole executrix; but the Defendant R. denied he had received any of the rents and profits of the said Testator's since his death; but the Defendant W. admitted that he had received the same, and submitted to account, as the court should direct. And the said P. C. the infant, put in his answer to the said bill by T. B. his guardian, and thereby (amongst other things) submitted his interest in the premises to the care and protection of the Court. And your Oratrix further sheweth unto your Lordship, that the said cause being thereupon at issue, and witnesses examined on both sides, the same came afterwards to be heard, to wit, the _____ day of _____, in the _____ year of the reign of his present Majesty King George the second, before the then Master of the Rolls; and thereupon it was (amongst other things) declared and decreed by his Honor, that the said Testator's will was well proved, and that the trusts thereof ought to be performed: and that the said manor of A. and lands agreed to be settled by the said marriage articles, were to go according to the limitations of the said marriage articles, discharged of the said Testator's debts, and that Mr. _____, one of the Masters of this honorable Court, should take an account of the said Testator's debts and legacies, which were to be paid first out of the said sum of _____, part of your Oratrix's portion, and the residue thereof was to be raised and paid out of the rents and profits, or by sale or mortgage of the said Testator's real estate, by the said articles and will particularly appropriated for that purpose, with the approbation of the said Master; and any deficiency therein was to be made good out of the other part of the Testator's real estate, not in settlement to your Oratrix; and that a fit and proper person should be appointed to receive the rents and profits of all the said Testator's real estates; and the said Master was to see what was proper to be allowed for the maintenance of the Defendant, P. C., and the Plaintiff W. his brother respectively, as well for the time past, as to come, and to state the same to the Court, whereupon such further order should be made as should be just; and what was to be allowed for their respective maintenance, was to be paid to your Oratrix, their mother, out of the rents and profits of the said estate, so long as she could maintain them, and until further order of Court to the contrary, and all other proper directions were given for the taking the said account; as, by the said bill and answers, and the other proceedings in the said cause, and the said decretal order made upon the hearing thereof, remaining as of record in this honorable Court, may more fully and at large appear, and to which your Oratrix humbly craves leave to refer herself; and your Oratrix further sheweth unto your Lordships, that after hearing the said cause, and making the said decree, to wit, in or about the month of _____, the said Defendant, P. C. the eldest son and heir of the said Testator, P. C. departed this life intestate, and without issue, as did also the Defendant, W. W. in or about the month of _____, by reason whereof your Oratrix is advised, that the said cause, and the proceedings and decree had therein, as to them, the said P. C. and W. W. became and are abated; and your Oratrix further shews unto your Lordship, by way of supplement to her said former bill, that upon the death of the said Testator, P. C. the said manor of A. and lands and premises

of W. agreed to be settled in and by the said marriage articles, as therein and hereinbefore is mentioned, and which were discharged by the said decree from payment of the said Testator's debts as aforesaid, did, by virtue of the said marriage articles, immediately upon the death of the said P. C. your Oratrix's late husband, come to the said P. C. as eldest son and heir of the said marriage, and his heirs male; and that he became entitled to the rents and profits thereof from the death of his said father to his own death, and upon his death the said estates came to the said W. C. the Testator's said second sons, and one of the Defendants hereinafter named, as tenant in tail, by virtue of the said articles; and your Oratrix further sheweth, that the said W. W. was appointed receiver of the rents and profits of the said Testator's real estates, pursuant to the said decree; and as your Oratrix is informed, the said W. W., till the time of his death, and the said L. R. or one of them, not only received the rents and profits of the said Testator's real estate, subject to the payment of his debts, but also of the said settled estate, which belonged only to the said P. C. her son, and applied the same promiscuously with the rents of the said other estate, in payment of the said Testator's debts and legacies, or for some other uses and purposes for which the same were no ways applicable; and your Oratrix further sheweth, that the said W. W. some time before his death, duly made his last will and testament in writing, and thereof appointed C. B. of M. in the said county of N. gentleman, and R. H. of the same place, gentleman, executors, who have proved the same, and possessed themselves of his personal estate; and, since the decease of the said W. W. L. L. of , in the said county of , gentleman, hath been appointed receiver of the said Testator, P. C.'s said real estates; and your Oratrix further sheweth, that there was a great arrear of rents and profits due to the said P. C. her son, at the time of his decease, for the said manor of , and the said lands and premises at , agreed to be settled as aforesaid, and then unreceived, and in the hands of the several tenants, who held and rented the same, amounting to the sum of , and upwards, and that some part thereof, since the deceases of the said intestate, P. C. and the said W. W. hath been received by the said C. B. by virtue of or under pretence of some order or direction for that purpose, and that the order, part thereof hath been received by the said L. L. the said receiver, and the said L. R. the said surviving trustee, or some or one of them, and which they, the said C. B. L. L. and L. R. pretend to have paid and applied towards the payment of his the said P. C. the Testator's mortgage, and other his debts, due and payable out of the other part of his said real estate, in the pleadings in the aforesaid cause mentioned, contrary to the said decree made upon the hearing thereof, as aforesaid; and your Oratrix further sheweth, that soon after the death of the said P. C. her said son, letters of administration were granted to her out of the Prerogative Court of Y. and thereupon, and by virtue thereof, she became well entitled to all and singular the rents and profits of the said manor of A. and lands and premises at W. received by the said W. W., the said late receiver, and the said L. R. which accrued due for the same estates, after the death of the said Testator, P. C. or which were received by them after making the said decree in the said intestate's life-time, over and above his maintenance, and all the arrears thereof, which were in the hands

hands of the tenants, and unreceived, and due to the said P. C. your Oratrix's said late son, at the time of his death, and ought to have received the same, and ought to have had an account thereof, and the same ought to be distributed in moieties between your Oratrix and her said son W. as by the same letters of administration, in the custody or power of your Oratrix, and ready to be produced to this honorable Court, may appear. And your Oratrix humbly insists, that by virtue of the said letters of administration, your Oratrix stands in the place of the said P. C. her said son, deceased, as to the said rents and profits received of his said estate, as aforesaid, in his life-time, and which were due to him, and in arrear, and received as aforesaid, since his death, and thereupon is entitled to have the aforesaid decree made upon the hearing of the said cause, revived and carried into execution, and to have the benefit of all the said proceedings, in such manner as this honorable Court shall direct. And your Oratrix farther sheweth, that they the said W. C. her son, C. R. R. H. L. L. and L. R. have entered into a combination and confederacy how to defeat your Oratrix of the said moiety or half part of the said rents and profits of the said manor of A. and lands and premises at W. which were received by them the said W. W. and L. R. in the life-time of the said intestate, P. C. over and above his maintenance, and which were due, and in arrear to the said intestate, P. C. her said son, at the time of his death, and which have, since his death, been received by the said C. B. L. L. and L. R. or some of them, and to all which, and an account thereof, your Oratrix is well entitled as aforesaid; and thereupon the said confederates, and especially the confederates C. B. R. H. L. L. and L. R. refuse to give your Oratrix any account thereof, or to pay her the same; and they, the said C. B. and R. H. pretend that the said W. W. did not leave assets sufficient to answer and make good to your Oratrix what he so received; and the said W. C. pretends that he is entitled to the whole of the rents and profits of the said manor of A. and the lands and premises at W. which were received by the said W. W. and L. R. in the life time of the said intestate, P. C. over and above his maintenance; as also, to the rents and profits which were in arrear and due to the said intestate, P. C. at the time of his death, for the same, or that the same ought to be applied in discharge of the said P. C. his late father, the Testator's debts; whereas your Oratrix doth expressly charge as above; and that the said W. C. was entitled to one moiety, or half part thereof only, and that your Oratrix is well entitled, as aforesaid, to the other moiety, or half part thereof; and your Oratrix doth also insist, that as the said manor of A. and the lands and premises at W. agreed to be settled as aforesaid, were, by the said decree, discharged from the payment of the said Testator, P. C.'s debts; that therefore the said rents and profits thereof, which were due to the said intestate, P. C. at the time of his death, and received as aforesaid, ought not to go and be applied towards the payment thereof, but ought to be equally divided, share and share alike, after just deductions and allowances made out of the same, between your Oratrix and him, the said W. C. her son.

Prayer.

In consideration whereof, and to the end that the said confederates, and every of them, may answer all and singular the premises hereinbefore

before added by way of supplement, as fully, particularly, and distinctly, as if the same were here again repeated and interrogated, and more especially that the said C. B., R. H., L. L., and L. R. may set forth a true and just account of all and singular the rents and profits of the said manor of A., and lands and premises at W., which they the said W. W. and L. R. or either of them, or which any other persons by their, or either of their order, or for their, or either of their use, did receive in the life-time of the said intestate P. C., and also a true and just account of the arrears thereof due to him the said intestate at the time of his death, and which, since his death, have been received by the said C. B., L. L., and L. R., or any of them, or any other person or persons by their, or any of their order, for their, or any of their use or uses, separately and distinctly, in each and every of the said years they so received the same, and how much they deducted, paid, or allowed out of the same in each and every of the said years, separately and distinctly, and for what, and upon what account, and how much the same amount to in the whole, after such deductions; and how and in what manner, and to and for whose use and benefit they paid and applied the same, or otherwise disposed thereof; and that the said C. B. and R. H. may either admit assets of the said Testator, sufficient to answer your Oratrix's demand upon the said W. W.'s estate, or else that they may set out a true and perfect inventory and particular of all and singular his goods, chattels, rights, and credits; and how the same hath been paid, applied, or otherwise disposed of; and that the said confederates may set forth whether your Oratrix hath not, since the death of the said P. C. her said son, taken out letters of administration to all and singular his goods, chattels, rights, credits, and personal estate whatsoever, and whether your Oratrix is not well entitled to have a just account of the said rents and profits, and in her own right entitled to one full, undivided moiety or half part of all and singular the said rents and profits of the said manor of A. and the lands and premises at W. received by the said W. W. and L. R. during the life-time of the said intestate P. C. over and above his said maintenance, and all the arrears thereof which were due and in arrear to him, the said intestate, P. C. at the time of his death; and that they, the said C. B. R. H. L. L. and L. R. may set forth their reasons why they refuse to account with and pay to your Oratrix the same; and that they may be compelled forthwith to come to a just and fair account with your Oratrix, and to pay to your Oratrix what shall appear to be due to her upon such account; and that the said decree may be revived and carried into execution; and that your Oratrix may have the benefit of all the aforesaid proceedings and decree, in such manner as this honorable Court shall direct. May it please your Lordship, &c.

SECT. V.—INFORMATIONS.

AN information in every respect follows the form of a bill, except in the style; but when it concerns only the rights of the crown, or of those whose rights the crown takes under its particular protection, as charities, they are exhibited in the name of the King's Attorney or Solicitor-General, as the informant, and in the latter case always, and in the former sometimes, a relator is named, who in reality sustains and directs the suit.

The difference in form between an information and a bill, consists merely in offering the subject matter; as the information of the officer in whose name it is exhibited, at the relation of the person who suggests the suit, in those cases where a relator is named, and in stating the acts of the defendant to be injurious to the crown, or to those whose rights the crown thus endeavours to protect, when the pleading is, at the same time, an information and bill, it is a compound of the forms used for each, when separately exhibited.

It may happen that this person has an interest in the matter in dispute, and sustains the character of Plaintiff as well as of relator; and in this case the pleading is styled an information and bill. An information concerning the rights of the queen, is exhibited also in the name of her attorney-general. The proceedings upon an information can only abate by the death or determination of interest of the Defendant. If there are several relators, the death of any of them, while there survives one, will not in any degree

degree effect the suit ; but if all the relators die, or if there is but one, and that relator dies, the court will not permit any farther proceeding till an order has been obtained for liberty to insert the name of a new relator, and such name is inserted accordingly ; otherwise there would be no person liable to pay the costs of the suit, in case the information should be deemed improper, or for any other reason should be dismissed. *Mit.* 91, and 1 *Ves.* 72. § *Ves.* 327.

An Information by the A. G., at the Relation of A. B., against the Trustees, for establishing the Right of certain Persons to nominate the Objects of the Charity, and to remove the Trustees for Abuse of the Charity.

Informing, sheweth unto your Lordship, W. de G. esq. his Majesty's A. G. by and at the relation of S. I. clerk, perpetual curate of the parish church of , that sir T. R., late of, &c. kut. being seized or entitled, in fee-simple, of or to divers messuages, lands, tenements, and hereditaments, situate, &c. And by indenture, &c. (gives a rent-charge to trustees, upon the trusts following, *i. e.* to pay the minor) for a sermon to be preached on every day of , and also that minor, churchwardens, constables, and overseers, should bind out apprentices at £ each, and a like sum for the preferment of a poor maid in marriage, in case no proper objects, trustees to elect from the adjacent parish within miles, to keep a book of the disposition of the above charity, and power to elect new trustees. And the said A. G., at the relation aforesaid, further informeth your Lordship, that all the persons to whom the said yearly-rent charge was granted, in trust as aforesaid, are long since dead, and other persons have been from time to time appointed trustees thereof; and the said yearly rent-charge hath been from time to time granted to such new trustees, and the same is now vested in, &c. upon the trusts declared by said indenture of, &c. and the same hath been for several years received by or by the order, or for the use of them, or some or one of them.

That Defendants have from time to time, since they have been in receipt of the yearly rent-charge, paid the said yearly sum of for preaching a sermon yearly in said parish church of C., but they, some, or one of them, have or hath, during all such time, converted and applied all the residue of the said yearly rent-charge to their or his own use.

That several of the inhabitants of the said parish of C. have from time to time made complaints to said present trustees on account of their abusing said charity, by converting said yearly rent-charge (except said yearly sum of) to their own use, instead of applying the same to the charitable purposes directed by said indenture of, &c. and requested them to place out as apprentices poor boys, nominated by the churchwardens, constables, and overseers of the poor of the said parish of C., according to the directions of said indenture; and it was hoped that trustees would have complied with such requests. But now, &c.

Pretend, that no such deed was executed. Charge contrary.

Pretend, that none of them are trustees of said yearly rent-charge, or however that none of them have received the same, or any part thereof. Charge contrary.

Pretend, that they have constantly from time to time applied the whole thereof according to the trusts declared by said indenture, and therefore not now accountable for the same, or any part thereof.

Charge contrary, and that if any boys had been placed, or intended to have been placed out apprentices by the said Defendants, or any or either of them, pursuant to the directions of said indenture, such boys have been constantly sons of some particular friends or acquaintance of them,

or some or one of them, and no money, or however very trifling sums of money paid on any such occasions, or however not really and absolutely and *bonâ fide* paid, but only apparently or colourably paid to the masters, and immediately, or soon afterwards, returned to Defendants, or some or one of them, or to some of their friends or acquaintances, or to such boys or their parents; and such boys have only gone to live with their pretended masters for a short time, with a view to claim an allowance of such sums as paid on placing them out apprentices.

That Defendants have frequently refused to permit the perpetual curate, churchwardens, constables, and overseers of the poor of the parish of C., or any or either of them, to interfere in the nomination of any child to be placed out pursuant to said indenture.

That Defendants, in order to keep the application as well as the receipt of the said yearly rent-charge to themselves have kept the indenture, and the trusts thereof, many years past, in said parish, and have, on all occasions, represented themselves to have the sole right of nominating boys to be placed out as aforesaid, and that the perpetual curate, churchwardens, constables, and overseers of said parish, or either of them, have no right to such nomination, or to interfere therein, although they, at all such times, well knew the contrary, they having said deed, or a copy or abstract thereof, in their custody or power.

And for the reasons, and under the circumstances aforesaid, relator insists that Defendants ought to answer and make good all the money received by them, and not really applied according to the trusts of said indenture, and ought to apply the same in the increase of said charity, and they ought to be discharged from the office of trustees, and to convey said rent-charge to other trustees; and relator hath applied to them for these purposes, but they absolutely refuse so to do. All which, &c. and tend to the great prejudice and diminution of said charity. In tender consideration whereof, and forasmuch as charitable donations can only be effectually established, and specifically carried into execution by the aid and assistance of a court of equity where matters of this nature are properly cognizable and relievable. To the end, &c.

Prayer.

That said charity and the right of the perpetual curate, churchwardens, constables, and overseers of said parish to nominate the objects thereof may be established; and that an account may be taken of all sums of money received by, or by the order, or for the use of them, Defendants, or any or either of them, for or in respect of said yearly rent-charge, and that they may apply and dispose thereof in such manner as this honorable Court shall direct, and that Defendants may be removed from being trustees of said charity, and new ones may be appointed for such purpose; and that Defendants may convey over the said yearly rent-charge to such new trustees, upon the trusts aforesaid, and deliver over unto them all deeds papers, and writings, in their respective custody or power, relating thereto. And for further relief.

Information

Information and Bill for re-establishing a Charity which had become dissolved by the Death of the Trustees, without the Appointment of Successors, whereby the Estates vested in the Heir at Law of the Founder.

States several wills and deeds which were the foundation of the charity, by which a free-school and an alms-house for poor men were to be established, and that letters-patent granted by queen Elizabeth for that purpose, whereby persons therein named, were appointed governors of said school and alms-houses, and incorporated.

That T. G., in pursuance of his mother's will, granted and conveyed certain lands to the use of the governors of said charity.

That as the said A. B., &c. who were, by the said letters-patent, appointed the first governors of the said school, and died, other discreet and honest men inhabiting within, &c. were from time to time chosen in their stead, and other persons were from time to time chosen to the said office, as often as a revocation required, until of late years, and in the year A. B., &c. were the only governors of the said school, and they are all since dead, without any other person being appointed a governor thereof in the room of any of them, according to the power in the said letters-patent, wherefore no person is now in being in whom any power is vested in choosing any governor of the said school, and alms-houses, in consequence whereof the corporation is dissolved, determined, or extinguished, and the estates are at law re-vested till the heirs of the said T. G. and T. A. respectively, i. e. such particulars thereof as were conveyed by the said T. G. to his heirs, and such particulars thereof as were conveyed by the said T. A. to his heirs, but in trust nevertheless in equity as to all such estates for the charitable purposes aforesaid.

That T. G. is the heir at law of the said T. G., in manner following, (that is to say,) &c.

That M., the wife of V. R., is the heir at law of the said T. A., in manner following, (that is to say,) &c. and therefore the legal estate in the said estates is vested in them the said T. G., V. R., and M. his wife, respectively, in trust for the said charitable purpose.

That a master was from time to time appointed of the said school, who from time to time taught and instructed boys and youths, according to the directions of the said letters-patent, and the clear income of the said estates applicable for the support of the said school after defraying the charges for repairing the said school, were from time to time paid to such school-master for the time being, until of late years; and poor men have been from time to time appointed to the said alms-house, and the said clear income of the said estates applicable for the support of the said alms-house, after defraying the charges of repairing the said alms-house, hath been from time to time applied for the support of the said poor men, until lately.

That Plaintiff S. H. is now the master of the said school, and Plaintiffs A. B., &c. are now the poor men in the said alms-house, and therefore they are now entitled to the clear profits of the said estates; and Plaintiff S. H. hath from time to time, ever since his appointment to the said

said office of master, discharged the duty thereof, and taught and instructed, with care and diligence, such boys and youths as have been sent to him for that purpose.

That T. G., of, &c. is and for several years past hath been in possession and receipt of the rents and profits of all the said estates, and also of the said manor, &c. and all other the estates there, late the estates of T. G., which were not granted by him to the said corporation; but he hath not of late years paid the whole of the clear income of the said estates, applicable for the support of the said school, to your Orator S. H., or near the whole of the clear income of the said estates applicable for the support of the said almshouses to Plaintiffs A. B., &c.

That several applications have been made on the behalf of Plaintiffs to the said G., requesting him to account for the rents and profits of all the said charity estates, and for said yearly rent of £ , and to pay the money remaining in his hands, in respect thereof, to Plaintiffs, according to their respective rights and interest therein, and applications have been made to said G., and heir at law, requiring them to convey the estates, vested in them as aforesaid, to other discreet and honest men inhabiting, &c. as trustees for the charitable purposes aforesaid. But now, &c.

Pretext no such deeds or wills, or letters patent, or other instruments as aforesaid, were never made, passed, or executed; and at other times admitting contrary, *pretext*, as said corporation was not kept up, but was suffered to dissolve and determine as aforesaid, the said estates re-vested to them as heir at law respectively, and became free from said charities, whereas the attorney-general insists, and Plaintiffs are advised, that notwithstanding the legal estate in such estates so re-vested to the said last-mentioned Defendants respectively, yet the said estates remained in equity, liable to said charities in same as same were held while said corporation was existing.

Alledge, that they cannot take upon themselves to convey said estates, or any of them, to any trustees whatsoever, for the benefit of said charities, without the direction of this honorable Court, and the rather for that no person hath power to name or appoint any such trustees, said G. admitting that he hath been in possession, &c. alledges that he hath paid the whole, but refuses to discover the particulars of said rents, and at some times set up some other right, &c. but refuse, &c. All which, &c.

Prayer.

That the aforesaid several charities may be established, and that honest and discreet men, inhabitants, &c. may be appointed as trustees and governors, &c. and that the estates which were conveyed to said corporation as aforesaid, and also said rent-charge of £ may be conveyed to such persons, and their heirs for ever, in trust, for the said respective charitable purposes, and that a clear income, &c. may be from time to time for ever applied for the said respective charities, and that directions may be given for choosing new trustees and governors, &c. from time to time, and for vesting said estates and rent-charge in such new trustees, &c.; and an account of money due to Plaintiffs, (schoolmasters and poor men,) out of the clear

clear income, &c. and that same may be paid to them respectively. And further relief.

Information for establishing a College, under a Will made before 9 Geo. II., though Devisor did not die until long after the Act.

States, that sir G. D., late of, &c. was seized in fee-simple of divers manors, &c. situate, &c. which he held by or under leases for lives or years determinable upon said lives, or for years absolute, and being so seized and possessed, and having surrendered copyholds to the use of his will, the day of , duly made will, &c. (gives his lands to several persons therein named, and in default of issue to trustees to found a college in C., to be called D. college, leaseholds to go with freehold, and gives personal estate to T. G. D., whom he appoints executor.) Death of Testator, the day of , without revoking, &c. and without issue, leaving T. G. D. his heir at law, who proved the will, and took possession of estates.

Death of T. G. D., in , without issue, and also of T. B., C. P., and T. P., (the remainder-men in the will,) without issue, in the life-time of T. G. D. and therefore, on death of T. G. D., he dying without issue, the rents and profits of all testator's freehold, copyhold, and leasehold estates became applicable for the purchase of lands to build a new college in said town and university of C., and for the erection of such college, and for the supporting and endowing same according to directions of said will. Death of trustees in Testator's life-time, and therefore, on Testator's death, freehold and copyhold estates, and such of leaseholds as were held for lives descended to T. G. D., as his heir at law, but subject in equity to the trusts in Testator's will mentioned, and that, on Testator's death, all his leasehold estates which were held for years absolute, or years determinable on lives, vested in T. G. D. as his executor.

Will of T. G. D., the day of , gives to his wife Defeudant M. D. all his real and personal estate, chargeable with the payment of several annuities and legacies, and appoints her executrix.

That T. G. D. left the Defendants E. N., his heirs at law, and relators are advised, that if T. G. D. was of sound and disposing mind, memory, &c. at the time of making his will, and if same was executed, &c. then the aforesaid estates then were legally vested in Defendant, the widow, but that if T. G. D. was not of sound mind, &c. or the will not duly executed, &c. freehold estates were then legally vested in the heirs at law of T. G. D., and relators are advised that copyhold estates, and the estates held by leases for lives, were then legally vested in said heirs at law, and that the estates held by leases for years absolute, or years determinable on lives, were legally vested in the widow as executrix of T. G. D., who was executor of sir G. D.

That widow had, since the death of her husband, entered on all freehold,

freehold, copyhold, and leasehold estates, and was then in possession, &c. and had also got into her possession all deeds, evidences, and writings relating thereto.

Application to discover the particulars of all freehold, copyhold, and leasehold estates which sir G. D. was seized at the time of making his will, and at his death, and to account with relators for all the rents and profits which had accrued due since the death of T. G. D., and received by the widow, or for her use, and to pay the money so received in order that the same might be applied according to the directions of the will of sir G. D., and to concur with relators in appointing some person or persons to receive the rents and profits of the said estates, so that the future income thereof might be secured, and might with the money so due from her, be applied when the same should be sufficient to purchase ground to build a college on, according to said will, and also to deliver deeds and writings, belonging to said estates, to relators; and also requested her and the heirs at law of T. G. D. to convey and assign all the said estates to proper trustees for the benefit of said college when erected. And relators well hoped, &c. But now, &c. the widow and heirs at law of T. G. D., the archbishop of C., archbishop of Y., master of St. J.'s college, and the master of C. H., (who were appointed by said will to regulate the college,) and an annuitant under the will of sir G. D., Defendants combining, &c. and acting in concert together, how to subvert and defeat the charitable intention of Testator sir G. D., the widow and heirs at law of sir G. D.

Pretend, that sir G. D. was not of sound mind, &c. at the time of making will, or that same was not duly executed, &c. and therefore they insist, that on his death all the real estates descended to T. G. D., as his heir at law; and the widow claims same under aforesaid will of T. G. D., insisting that his said will was duly executed, &c. and the heirs at law claim same, insisting that T. G. D.'s will was not duly executed, &c. and therefore that same descended to them as heirs at law.

Charge contrary, and as evidence of the sanity of Testator sir G. D., at the time of making his aforesaid will, *Charge*, that T. G. D., soon after said sir G. D.'s death, duly proved said will as his executor, and in many respects acted as such; all Defendants, at other times, admit, but then

Pretend and insist, that, by virtue of a statute made in the year of the reign of George 2, intituled "An act to restrain the disposition of lands," whereby the same became unalienable, it was enacted, that, after the day of , no manors, lands, tenements, rents, advowsons, or other hereditaments, should be given, &c. the said devise of said estates for the purpose of building and endowing said college was void, and therefore they, as devisees, or heirs of sir G. D., were entitled to said real and leasehold estates.

Insist, that will of sir G. D. having been made long before the passing of the said act of parliament, the charitable purpose thereby intended and directed ought and might take effect, notwithstanding said act of parliament; and although Testator did not die until after the passing and commencement of said act, and therefore that the rents and profits of real and leasehold estates, accrued due since the death of T. G. D., ought to be accounted for and applied to the charitable purposes in the will mentioned,

tioned, and that a receiver or receivers ought to be appointed of the said real and leasehold estates, and that the several deeds and writings relating thereto ought to be deposited in this court, or otherwise preserved and taken care of, and that said estates ought to be conveyed and assigned to proper persons in trust for said charitable purpose; but Defendants refuse to comply with such request to them respectively made as aforesaid, and widow, or her agents, by her directions, have refused to give the relators, or their agents, any information of the particulars of said estates, and that well knowing that such particulars would appear by said deeds she refused to discover the same, although often requested thereto.

Widow at other times pretends, that most of the estates which the said T. G. D. was in possession of at his death, never were the estates of sir G. D., or were not purchased or acquired by him until after the making of said will, and therefore the same did not pass by said will.

A. B. pretends Testator sir G. D. made a codicil to his will, whereby he gave unto her an annuity of £ , during her life, and that he thereby charged all his lands with payment of same, and pretends that codicil was made whilst of sound, &c. and that same was duly executed, &c. and that she is therefore entitled to said annuity of £ thereby expected to be given to her.

Charge, that sir G. D. made no such codicil, or that he was not of sound, &c. or same not executed, &c.; but that if codicil was executed, &c. relators are advised that said annuity ought to be paid out of personals of sir G. D., and ought only to be paid out of his real estate, in case of a deficiency of his personal estate for payment thereof.

Charge, that T. G. D., as executor of sir G. D., possessed personals belonging to sir G. D. at his death, much more than sufficient to satisfy his debts, legacies, and said annuity; and that widow, as executrix of T. G. D., had possessed personals belonging to him, at his death, more than sufficient to answer and make good the personal estate of sir G. D. possessed by T. G. D., and therefore relators advised and insist that a sufficient part of personal estate of T. G. D. ought to be set apart for securing said annuity, so that said real and leasehold estate might be discharged therefrom; but A. B. insists on a right to said annuity out of the real and leasehold estates in preference of said charity, and widow refuses to set apart a fund for securing said annuity.

Defendants claim some other right, &c.; Defendants archbishop of C., &c. decline to do such acts as are proper for founding and establishing a new college in said university, according to directions in Testator G. D.'s will. All which, &c.

Prayer.

That sir G. D.'s will may be established, and the trusts performed and carried into execution, that all proper directions may be given for that purpose; an account of money received by widow, in respect of rents and profits of freehold, copyhold, and leasehold estates become due since the death of T. G. D.; that she may pay the money due on such account as the Court shall direct, in order that same may be applied for answering the purposes of said will; that one

or

or more proper person or persons may be appointed by the Court to receive the rents and profits of all said freehold, copyhold, and leasehold estates, in order that same may be secured and applied for the purposes of the will. That freehold, copyhold, and leasehold estates may be conveyed, surrendered, and assigned as the Court should direct, for benefit of said charity; that all proper parties may join therein; that all deeds and writings relating to title of said estates may be brought into Court, or otherwise preserved for the benefit of said charity. That if it should appear that sir G. D. did duly make and execute such codicil as hereinbefore mentioned to be pretended by A. B., then that a competent part of the personal estate of sir G. D. may be set apart for securing the payment of said annuity of £ , so that said freehold, copyhold, and leasehold might not be subject thereto. And for further relief.

Information by the Attorney General, to restrain Building.

States, that there is situate, lying, and being within the parish of B. in the county of M., a certain street or road commonly called or known by the name of , which is bounded on the east by certain dwelling-houses and the areas thereto belonging, and on the west side thereof by certain land or ground now belonging to the duke of B., from which the same was formerly separated by a brick wall, which hath within these few weeks past been pulled down and demolished, and which street and public highway, at the south end thereof, terminated with a certain street and public highway called , and at the north end thereof terminated at, and communicates with a certain piece or parcel of land which hath lately been laid out as a street and public king's highway, which is called , which street or road is called or known by the name of , now is, and hath for upwards of years last past been a common and public king's highway for all his majesty's subjects whatsoever, and the same hath been, from time to time, for upwards of last past, repaired at the expence of the inhabitants of the houses adjoining the said street and king's highway, and of the inhabitants of the said parish of , by means of rates imposed, and by virtue of certain acts of parliament made and passed in the years of his present majesty's reign, or some or one of them.

That all his majesty's subjects ought now and at all times hereafter to have the free use of the said street and public king's highway, for themselves, their carriages and horses, free from all let, interruption, and hindrance whatsoever. But that the said duke of B. hath lately entered into some contract with J. B. for the ground lying and being on the west side of the said street or public highway, and adjoining thereto, and said Defendant hath agreed with said Defendant duke of B. to erect certain houses on the said piece or parcel of ground fronting the said street or king's highway, on the west side thereof; and said Defendant J. B. threatens and intends shortly to take up part of the pavement in the said street

street or public king's highway, on the west side thereof, and to make and dig large holes therein, for the purpose of erecting vaults therein, upon, and under the said street or public king's highway, to be used with the said dwelling-houses, and to pave or cover the said street above such vaults, when erected, with broad flags or stones, such as are used for paving of passages for foot passengers only; and that by the digging of such holes, and building of such vaults, the said street and king's highway must necessarily and unavoidably be much obstructed and rendered much less convenient for his majesty's subjects, who will be deprived of so much of the said street and king's highway as shall be so dug up, or as shall be used for the lying of earth and rubbish dug thereout, until said vaults shall be completed; and that when the same are completed, said street and public king's highway will at all times after be liable to be obstructed by the falling in of such vaults, or when the same stand in need of repairs, that the digging and making of such vaults, and the continuance thereof, will be to the public damage and nuisance of all his majesty's subjects, and particularly of said relators and all other persons residing near the said street and public king's highway; and that if said vaults are covered over with said flags or broad stones, as intended, so much of the said street or king's highway as is covered with such flags or broad stones will become unfit to be used for horses and carriages; that his majesty's subjects, and particularly said relators, will not have the use and enjoyment of said street or king's highway in so beneficial a manner as they have hitherto been accustomed to have.

That the lying of such flags or stones will also be to the public injury and nuisance of all his majesty's subjects, particularly of such of them as aforesaid.

That such intended acts of the said defendant J. B., if carried into execution, will be to the wrong and injury of all his majesty's subjects, and will be a public nuisance. The said relators, and divers others of his majesty's subjects, have frequently applied to said J. B. and requested him not to proceed to dig up the said street or public king's highway.

Charges that said Defendants refuse to comply with such request, and threaten and intend to dig up the street and public king's highway in manner aforesaid, and to erect vaults under the same, and to pave or cover the street, or above the same, as hereinbefore mentioned.

Pretends that said piece of ground called _____ is not a public king's highway.

Charge contrary, and that said piece of ground was upwards of _____ years set apart for, and hath ever since been and still is used as a public king's highway, and hath, since the _____ year of the reign of his present majesty been repaired at the public expense of said parish of B. in manner hereinbefore mentioned, and that the same therefore is and ought to be taken to be to all intents and purposes a common and public king's highway.

Pretend that the soil of said piece or parcel of ground belongs to said Defendant the duke of B., and that he hath a right to dig and make vaults under same, and pave and lay the surface of such street as he shall be advised.

Charges contrary, and that if said Defendant duke of B. is owner of said piece or parcel of ground, yet same being a public highway, neither he

he the Defendant, nor any person claiming by, from, or under him, hath any right to dig the soil thereof, so as to obstruct, hinder, or interrupt the said way; and that in order to make said vaults, Defendant J. B. intends to dig holes from the surface of said street or highway, which may obstruct the same, or make the same less commodious or convenient for the passage of horses or carriages.

Pretend that they have been duly authorized and empowered by the commissioners named and appointed by said acts of George third, or some or one of them, for the purposes therein mentioned, or a sufficient number thereof, to make such vaults, and to pave such part of said street as they intend to pave with such flags or broad stones as aforesaid.

Charges and insists, that in case said commissioners have made any order by which they have pretended to give authority to said Defendants, or either of them, so to do, yet said commissioners had no power or authority to authorize said Defendants so to do, and especially to make vaults under said street, or to dig holes from the surface of said street, to enable them so to do.

Prayer.

Therefore that said Defendants, their servants and workmen, may be restrained by an injunction of this honorable Court from proceeding to dig up any part of the said public street called , and that if they have already dug up any part thereof, that they may be decreed to replace the same in the same state and condition as it was in before they dug up the same. And for further relief.

Information at the Suit of the King, for an Account of Timber Trees, &c. cut down in the King's Forest near S. the Defendant pretending that he was entitled to the same as Part thereof, as Keeper of the Forest.

Informing, sheweth unto your Honors, Sir A. M. knight, his majesty's attorney-general, on behalf of his majesty, that his majesty is and hath been for many years last past seized in his demesne as of fee in right of his crown, of and in the forest and chace of A. H. and W. in the county of S., and of and in the lands lying and being within the same, and the timber and other trees, wood, and underwood growing thereon; and the said attorney-general further informeth your Honors, that various persons, and particularly the right honorable lord S. the defendant hereinafter named, or his agents or servants, with his privy, by his order, or for his use, have or hath cut great numbers of timber and other trees and underwoods, and converted the same to his own use; and the said attorney-general, &c. that his majesty, or the proper officers, hath or have from time to time caused great numbers of timber or other trees to be cut down for the use of the navy, and for other purposes, and when such falls of timber
and

and other trees have been made, his majesty's officers and other servants have, in order to prepare the said timber and other trees for use, separated the bodies of the timber trees from the lops, tops, and boughs, and that the said lops, tops, and boughs are of considerable value, and upon such occasion the said lord S. or his agents, with his privy, by his order, and for his use, have carried away great quantities of the said lops, tops, and boughs, and converted the same to the use of the said lord S.; and the said A. G. &c. that his majesty, in right of his crown, is entitled to have an account taken of the timber, and other trees and underwood, so cut down and converted, and to have the value of the same to the proper officers for his majesty's use. And also an account of the lops, tops, and boughs so taken and carried away, and converted; and applications have been frequently made to the said lord S. to come to such account, and to make such payment, with which applications he ought, in justice and equity, to have complied; but now, &c. refuses so to do; and also threatens and intends to continue to cut down more timber and other trees, wood, and underwood; and to colour such his refusal and threats, he pretends, that neither he, nor any person or persons by his order, or with his privy, cut down any timber, or other trees, wood, or underwood, and converted the same to the use of the said lord S. Whereas the A. G. charges the contrary; and that the said lord S. hath yearly, and for many years last past, cut down, or in manner aforesaid, caused to be cut down great number of timber and other trees, and great quantities of underwood; and particularly, that sometime in the beginning of this present year, some person or persons, as the servants, or by the special order of the said lord S. cut down in W. forest aforesaid, a very great number of oaks, hollies, and other trees, and sold the same, and received the price thereof, and converted the money arising therefrom to his own use, as would appear from various books, papers, and accounts, kept by the order, or for the use of the said lord S. and in his possession, custody, or power.

And whether the said lord S. hath not in his possession, custody, or power, any and what books, papers, or accounts, containing some entry or entries of the timber and other trees, wood, and underwood, cut down and converted to the use of him the said lord S., and particularly of the hollies aforesaid, cut down in the beginning of the present year, or containing some entry or entries of the price for which the same, or some and which of them, were sold, or of the money produced by them, or any of them, or of the manner in which the same, or any of them, were employed or consumed, and whether the said books, papers, and accounts, or any, and which of them, are not now in their possession, custody, or power, or what is become of the same, and every of them. And that he may set forth a list of the same, with their marks respectively, and may leave the same in the hands of his clerk in court, for the inspection or perusal of his majesty's said attorney-general, or his agents. And so the said lord S. will sometimes admit. And the said lord S. also alledges, that he hath not taken, nor caused to be taken and carried away any lops, tops, or boughs of timber or other trees which have been cut down by order of his majesty, or of the proper officers on that behalf, for his majesty's use. Whereas the said A. G. charges the contrary, and that lately, and when there have been a fall of timber and other trees

trees by order of his majesty, or of the proper officers, for his majesty's use, some persons or person, as the agent or servants of the said lord S. or by his order, or for his use, carried away great quantities of the lops, tops and boughs, cast off from the said timber and other trees, and the same, or some part thereof were, or was sold, or in some way disposed of, and the same, or the price thereof was received, or accounted for to the said lord S. and so it would appear from certain books, papers, accounts, or writings in his possession, custody or power, if the same were produced, and so the said lord S. will sometimes admit; but then he alleges, that, under some grant, he is entitled to the office of keeper of the forest or chase of A. H. and W. with all offices, liberties, wages, fees, communities, and privileges whatsoever thereunto belonging, to hold the same for some term of years not determined, and to enjoy the said office, and the profits thereof, and to take all wood blown down, or thrown down, and house-bote, and fire-bote, for himself and the foresters and keepers of the said forest and chase; and that the said timber, wood, and underwood so cut down by the order of the said lord S. and taken and converted, was by virtue of the said grant, and for the house-bote and fire-bote for himself and the said foresters and keepers. Whereas the said A. G. charges, that the said lord S. is not under the aforesaid grant entitled to take any timber, wood, or underwood for house-bote or fire-bote, but at the view, or under the authority of the surveyor-general of the woods, within whose district the said forest, woods, or chase is situated, or some other officer of the forest. And the said A. G. further charges, that, even if the said lord S. were entitled to take house-bote and fire-bote without the consent, warrant, or authority of any officer, yet he was not entitled to take any timber, nor the number and quantities of other trees and underwood aforesaid, because, that the same was unreasonable, and more than sufficient for the repairs of the houses and lodges, and for fuel for their own consumption, and that in fact by far the greater part thereof was not employed in such repairs and fuel, but was actually sold and disposed of to other persons, and the price thereof paid, or otherwise accounted for to the said lord S. and so the said lord S. will at some times admit; and at other times the said lord S. alleges, that the above stated words of the said grant, giving him the boughs and branches of trees within the said forest, cut or thrown down, entitles him to take, and convert to his own use, all the lops, tops, and boughs of the timber and other trees felled or cut down by order of his majesty, or of the proper officers for his majesty's use. Whereas the said A. G. charges the contrary, and that the said lord S. is not, by force of the said words, nor by the said alleged grant, entitled to take the said lops, tops, and boughs of any timber or other trees felled or cut down by order of his majesty, or of the proper officer of his majesty, and so the said lord S. will sometimes admit; but nevertheless he refuses the aforesaid requests and applications, and also threatens and intends, on the next fall of timber and other trees, by order of his majesty, or of the proper officers, for his majesty's use, to take and carry away, and convert to his own use, the lops, tops, and boughs of all such timber and other trees. All which, &c. are contrary to justice and good conscience, and tend to the injury of his majesty in the premises, and to the detriment of the realm. To the end, &c. that the said lord S. may come to the aforesaid account, and may be restrained from

from committing any more waste in the said forest or chase. And that he may answer the premises as fully as if, &c. And more especially, that he may answer and set forth, whether, &c.

Prayer.

And that the said lord S. may set forth a true and particular account of the timber and other trees and underwood cut down by his order or with his privy, and the lops, tops, and boughs aforesaid taken and carried away by the order, or for the use of the said lord S. and in what manner the same and every of them were consumed and employed, and for what price the same were sold. And that his majesty may have the discovery aforesaid, the said A. G. hereby, on behalf of his majesty, waiving all, and all manner of forfeiture or penalty incurred by the said lord S. by the waste or by any of the other acts stated or charged in the said information. And that an account may be taken under the direction of this honorable Court, of all the timber and other trees, wood and underwood cut by, or by the order of the said lord S. or any of his servants or agents, with his privy or for his use, and of the value of such timber and other trees, wood, and underwood. And also that an account may be taken of the lops, tops, and boughs of the timber and other trees felled and cut down by order of his majesty, or of the proper officers for his majesty's use. And that the said lord S. may be decreed to make satisfaction to his majesty for the same. And that he may be restrained by the injunction of this honorable Court from cutting down, or from causing to be cut down, any more timber or other trees, wood, or undewood, and also from taking and carrying away any more lops, tops, or boughs of timber or other trees cut down by order of his majesty, or of the proper officers for his majesty's use. And for further relief.

Information against opening a Foot-way for a Carriage Road.

Informing, sheweth unto your Lordship, sir E. L. knight, his majesty's attorney-general, at the relation of A. B. &c. &c. that there is situate, lying, and being, within the parish of St. J. in the city of W. a certain public street, called V. lane, leading from a certain other public street, called B. street, to a certain other public street, called G. street, and communicating on the north side thereof with certain other public streets called C. street, old B. street and S. row. And his majesty's attorney-general, by the relation aforesaid, further sheweth, &c. that at the east end of the said street, called V. lane, there is a certain other public street, called S. street, leading from thence into a certain other public street, called P. and that along the south side of said street, called V. lane, from S. street to B. street, there is, and for many years past hath been a common and public foot-path, which hath been from time to time paved
with

with flag-stones, at the expense of the inhabitants of the said parish of St. J. for the convenience of persons passing and repassing on foot, the said street called V. lane, being a great public thoroughfare for foot passengers from B. street to S. street, although there is not, nor ever hath been any thoroughfare for carriages along the said street from B. street to S. street, by reason of certain wooden posts, arc, and ever since the making of the said street called V. lane, have been placed across the said street, a few feet to the eastward of S. row. And his, &c. that the said common and public footway from B. street to S. street, is, and ever since the making of the same, hath been bounded on the south, for the most part, by a certain ancient brick wall, which forms the north fence and boundary of certain lands called M. gardens and B. gardens, and that there is not, nor ever hath been any public way or opening on the north side of the said footway, so that his majesty's subjects in passing and repassing on the same footway, have at all times had the free and uninterrupted use thereof without any hurt, hindrance, or obstruction whatsoever. And his, &c. that upward of years since the then owners of the said lands, called M. gardens and B. gardens severally claimed a right to open a public street or way from P. through their said respective lands into the said street called V. lane, and threatened to make a public street or streets accordingly, but such claim being resisted on the part of the proprietors and inhabitants of the said several streets, called V. lane, C. street, old B. street, and S. row, by reason of the disturbance and injury that would thereby be occasioned to the said several streets, the said owners to the said lauds thought fit to abandon such claim. And afterwards, by an act of parliament made and passed in the 12th year of the reign of his present majesty, intituled "An act, &c." It was provided, &c. which provision was inserted in the said act of parliament for the purpose of protecting the said streets, called V. lane, S. row, C. street, and old B. street, from any thoroughfare for carriages from P. to the said street called V. lane, by the way of S. street, or by any other means than by the way of B. street. And his, &c. that his royal highness the duke of Y. proprietor of the said lands called M. gardens, and the Defendant hereinafter named, hath formed a plan for making, and is about to make a public street or way for horses, carts, and carriages, from P. through the said lands, called M. gardens into the said street, called V. lane, over the aforesaid common and public footway on the south side of the said street; and in and towards the execution of such plan, hath actually made an opening in the said ancient boundary-wall, and hath taken up a part of the flag pavement of the said foot-way. And his, &c. that such public street or way so intended to be made by the said Defendant his royal highness the duke of Y. if carried into execution, will greatly interrupt and obstruct the said common and public footway on the south side of the said street, called V. lane, and will be to the great damage and common nuisance of all his majesty's subjects passing and repassing by the said footway. And his, &c. that such intended street, if carried into execution, will be opposite to the end of S. row, and westward of the said wooden posts, so as aforesaid placed across the said street, called V. lane, and by making a direct thoroughfare for horses, carts, and carriages from P. into the said street called V. lane, will actually defeat the provision made as aforesaid in the said act of parliament,

for

for the protection of the said streets, called V. lane, S. row, C. street, and old B. street, from any thoroughfare for carriages from P. other than by the way of B. street, and will therefore be contrary to the true intent and meaning and spirit of the said act of parliament.

Inquiry.

To the end therefore, that his royal highness the duke of Y. may, upon his honor, and according to the best of his knowledge, remembrance, information, and belief, full, true, and perfect answer make to all and singular the matters aforesaid, as fully and particularly as if the same were here again repeated, and he hereunto distinctly interrogated, &c.

Prayer.

And that the said Defendant may answer the premises. And that the said Defendant, his agents, servants and workmen, may be restrained by the order and injunction of this honorable Court, from proceeding to make and open any public street or way from the said lands, called M. gardens into the said street, called V. lane, over the said common and public footway. And that the Defendant may be directed to replace the flag-stones of the said footway so as aforesaid removed by him or by his order, and to put the same footway into the same state and condition as the same was in before his obstruction thereof, as aforesaid. And for further relief, &c.

J. L.

CHAPTER VI.

THE VARIOUS DEFENCES TO A BILL IN CHANCERY.

SECT. I.—ANSWERS.

AN answer must confess and avoid, or traverse and deny the material parts of the bill.

If the Defendant deny a fact charged in the bill, he is to traverse or deny it (as the case requires) directly, and not by way of negative pregnant, as if he be charged with the receipt of a sum of money, he must deny or traverse, that he hath not received that sum or any part thereof, or else set forth what part he hath received and deny the rest. And if a fact be laid to be done with divers circumstances, he must not traverse or deny it literally, as laid in the bill; but must answer the point of substance, positively and certainly. (*Lord Clarendon's Orders*, 18 Car. 2.)

An answer to a matter charged as the Defendant's own fact, must regularly be, without saying, "to his remembrance or belief," if laid to be done within six years before, unless the Court upon exceptions taken, shall find special cause to dispense with it, and as to the fact of another, which he does not certainly know, he ought to say, he has heard and conceives, or believes it to be true," or "that he does not conceive or believe, &c.," and ought not to say only, "that he has heard."

Where

Where a particular combination is alledged in a bill, a particular answer must be given.

A Defendant must answer positively, and not on belief, as to recent facts which are in his own knowledge ; but not as to the result and effect of a conversation (*Harding v. Frampson, in the Exchequer.*)

Defendant is not obliged to answer facts which are interrogated to, but which are not charged in the bill : but if he does answer to such facts, and the Plaintiff applies to his answer, they are properly put in issue though they were not charged in the bill. (*Per Lord Hardwicke, 1 Ves. 538.*)

The general charge as to the fact of payment, enables the Plaintiff to put all questions upon it that are material to make out whether it was paid ; and it is not necessary to load the bill by adding to the general charge that it was not paid, " that so it would appear if the Defendant would set forth when, where, &c." (*11 Ves. 301.*)

In a suit for an account, an answer going no further than to enable the Plaintiff to go into the Master's office, is not sufficient ; he is entitled to the fullest information the Defendant can give him by the answer, not by long schedules in an oppressive manner, but giving the best account they can, stating that it is so, referring to books, &c. so as to make them part of the answer, and giving the fullest opportunity of inspection. (*8 Ves. 193.*)

An administrator disputing by his answer the foundation of the bill, viz. a balance of accounts against the Testator's estate, and submitting to be examined upon interrogatories, need not set forth an account of the personal estate, &c. by way of schedule. (*4 Ves. 107.*)

If the discovery sought by the bill, is matter of scandal, or will subject the Defendant to any pain, penalty, or forfeiture, or to any ecclesiastical penalty or punishment, he is not bound to make answer thereto; and if he pleases, he may insist by answer, that he is not bound to make the discovery. (*Vide Wy. Pract. Reg. 24, and the cases there cited.*)

Lord Eldon was of opinion, that an answer clearly evasive upon the face of it, and no reason assigned how it happens that he can put in no better answer, ought, by general order to be made by the Court, to be considered as a contempt of the court. (9 *Ves.* 463, *et* 179.)

Impertinence is, where the pleadings are stuffed with long recitals, or with long digressions of matters of fact, which are altogether unnecessary, and totally immaterial to the point in question; as where a long deed is stated, which is not prayed to be set forth in *hæc verba*.

An answer ought not ordinarily to set forth deeds in *hæc verba*; and though the bill prays they may be set forth, yet if the Defendant in his answer says, he is ready to let the Plaintiff have copies of them, or if he does not say so, but sets forth only that part to which the inquiry tends, it is sufficient; and the court will order that the Plaintiff have liberty at his own charge to take copies of them without sending them to a master, or order the Defendant to produce them on an examination of witnesses.

An answer must contain nothing scandalous or impertinent; but nothing relevant is deemed scandalous. (*Mos.* 45 and 70.)

Matter in an answer relevant, according to the case made by the bill, is not scandalous, whatever may be the nature of it. (11 *Ves.* 526.)

Whatever

Whatever part of a bill is not covered by a demurrer or plea, must be defended by answer, unless the Defendant disclaims; if the plea be over-ruled, the Defendant may insist upon the same matter by answer. (3 *P. W.* 95. 1 *Atk.* 450.)

If fraud be charged in a bill, it must be denied by answer and not by way of plea. (1 *Vern.* 185.)

An answer in misnaming the Plaintiff was considered as no answer; the Defendant therefore was considered not bound by it, and a proper answer being put in, the former was ordered to be taken off the file by the description of a paper writing, purporting to be an answer. (11 *Ves.* 62.)

As a further answer is considered as forming part of the first answer, so an answer to an amended bill is considered as part of the answer to the original bill, as much as if it had been engrossed on the same parchment, and part of the same record; therefore if a Defendant in further answer, or an answer to an amended bill, repeat any thing contained in a former answer, the repetition, unless it varies the defence in point of substance, will be considered as impertinent. (3 *Atk.* 303.)

An Answer by Executors denying Assets, and stating that the Estate is indebted to the Executors.

The answer of P. C., esq. one of the Defendants, to a bill of complaint of T. R. Complainant.

This Defendant, now and at all times hereafter, saving and reserving to himself all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections, and insufficiencies in the said Complainant's said bill of complaint contained, for answer thereunto, or unto so much, and such parts thereof, as he this Defendant is advised, is material for him this Defendant to make answer unto, he this Defendant answering, saith, that he denies that A. M. in the said complainant's bill mentioned, was, at the time of making her will, possessed of a considerable personal estate; but this Defendant admits that the said A. M. did, on or about the time in the said Complainant's bill for that purpose mentioned, duly make and execute her last will and testament of such date, purport and effect, as in the said Complainant's said bill of complaint, is for that purpose particularly mentioned, and that she thereby gave to the said T. R. her brother, an annuity or yearly rent-charge of £ a year, payable quarterly; but the said Testatrix A. M. did not, in and by her said will, give any directions out of what particular fund the said annuity of £ a year should be paid. And this Defendant admits that the said Testatrix by her said will, gave several other legacies, and thereby, after having devised to her daughter M. M. (now M. P.) her executors, administrators, and assigns for ever, all the rest and residue of her estate, of what nature, kind, or quality soever, she the said Testatrix A. M. appointed him, this Defendant and M. his wife, together with J. R. and T. P. since deceased, joint executors of her said will.

And this Defendant further answering, saith, that the said A. M. on or about the day of which was in the year of our lord , departed this life without revoking or altering her said will, and that soon after the said A. M.'s death, he this Defendant, together with M. his late wife, J. R. and T. P. duly proved the said A. M.'s will in the Prerogative Court of the archbishop of C. and took upon themselves the burthen of the execution thereof; but this Defendant absolutely denies that he ever possessed any part of the personal estate or effects of the said A. M. save and except a few household goods of very trifling value, or that to his knowledge, information or belief, the said A. M. died possessed of personal estate or effects to any considerable value, or even sufficient to pay her debts and legacies, but on the contrary, he this Defendant saith, that he this Defendant did, for the honor and credit of, and in respect to the memory of the said A. M. deceased, paid divers sums of his own proper money, as well in discharging several debts of the said A. M. as in the payment of legacies given by her the said A. M. to her poor relations, and also towards the support and maintenance of the said Complainant T. R. who is a person in indigent circumstances, imprudently and totally incapable of making a proper use of his money; and for which reason, he this Defendant caused such sums of money as he from time to time advanced to the said T. R. to be paid and applied in necessities for him.

And

And this Defendant further answering saith, that his late wife M. C. in the life-time of the said A. M., from her knowledge of the said A. M.'s being in bad circumstances and wanting money, did, for some time before her death, buy with his this Defendant's money, provision for the said A. M. and her family, and that the said M. C. also paid the said A. M.'s physician his fees during the said A. M.'s last sickness, likewise with this Defendant's money, and for which reason he this Defendant is well satisfied that the said A. M. died in very indifferent circumstances, and left little or no personal estate at her death.

And this Defendant further answering saith, that he hath heard and believes it to be true, that the said A. M. was in her life-time possessed of some trifling real estate at W. in the parish of B. in the county of N., of the value of about £ a year, to which she was entitled for her life only; and that upon her death the other Defendant M. P., as her only daughter and heir at law, became entitled thereto, and this Defendant hath likewise heard and believes, that the said A. M. was, at the time of her death, possessed of another freehold estate, left her by the will of — P. deceased, for her life only, and after her decease, to the said Defendant M. P. and her heirs.

And this Defendant further answering saith, that he knows of no other freehold, leasehold, or copyhold estate, of which the said A. M. died possessed.

And this Defendant further answering saith, that he hath heard and believes that the other Defendants J. P. and M. his wife have, since the decease of the said A. M., sold and disposed of the said lands and premises at W. aforesaid.

And this Defendant further answering saith, that he this Defendant, or the other Defendant J. R., to the knowledge, information, or belief of him this Defendant, ever paid several considerable sums of money, or any sum of money whatsoever, on account of the personal estate of the said A. M., into the hands of the other Defendants J. P. and M. his wife, or either of them; neither does this Defendant know, or ever heard, save by the said Complainant's said bill of complaint, that the said M. C. this Defendant's late wife, and J. T. deceased, or either of them, did in their respective life-times, out of the personal estate which they received of the said A. M., pay her the said A. M.'s debts and legacies, neither does this Defendant know of the said M. C. or the said J. T.'s having ever possessed any part of the said A. M.'s personal estate, (if any she had,) save and except a few household goods, which this Defendant hath heard and believes they the said M. C. and J. T. in their life-times sold for the sum of £ , or some such small sum of money, as this Defendant hath been informed, but which said sum of £ , or any part thereof, never came to the hands, custody, or power of this Defendant, neither was this Defendant privy to the sale thereof, or ever had or saw, to the best of his remembrance or belief, any written account thereupon, or any inventory of the said household goods, neither can he set forth the particulars thereof, having never been in the possession of the said household goods, or of any inventory or account thereof; but this Defendant is well satisfied that the said A. M. was indebted to his late wife the said M. C. in her life-time in a much greater sum of money than the amount of such household goods.

And this Defendant further answering saith, that he hath heard and believes

believes, that the other Defendant J. R. was in the receipt of the rents and profits of the lands and premises at W. from the death of the said A. M. to the time of the said other Defendant J. P. and M. his wife's selling the same; and that he the said J. R. during the time he was so in the receipt of the said rents, did out of such rents and profits pay to, or to the use of the said Complainant, the said rent of the said premises, and that by such payments, the said annuity of £ a year must have been overpaid and unsatisfied to the said Complainant. And this Defendant submits to this honorable Court, that as he hath possessed no assets of the said A. M. he is in no respect bound to pay the said annuity, or to come to any account with the said Complainant in respect thereto. And this Defendant submits it to this honorable Court, that he is well entitled, and ought in justice to receive out of the said A. M.'s personal estate, (if she left any,) all such sums and sum of money which he this Defendant hath paid for her the said A. M., or on her account. And this Defendant denies that he hath been applied to for the several purposes alleged by the said Complainant, otherwise than by the said Complainant's said bill of complaint. And this Defendant denies all and all manner of unlawful combination and confederacy in the said Complainant's said bill of complaint charged. Without that, &c.

Answer of an Infant Defendant, admitting the Allegations in the Bill, and submitting his Rights to the Court.

This Defendant saying, &c. saith, he believes it to be true, that W. R. deceased, in the said bill of complaint named, did, shortly before his death, duly make and publish his last will and testament in writing, to such purport or effect as in the said bill of complaint in that behalf set forth, and that the same was executed and attested in the manner required by law for passing freehold property.

And this Defendant further answering as aforesaid saith, he believes that the said W. R. the Testator, departed this life at or about the time in the said bill mentioned, without having revoked or altered his said will, and that W. H., S. H., and R. B., three other of the Defendants in the said bill of complaint named, duly proved the said will in the Prerogative Court of the archbishop of C., and took upon themselves the execution thereof.

And this Defendant further answering as aforesaid saith, he believes it to be true that the said Testator, at the time of making his said will, and at the time of his death, was seized or entitled in fee-simple in possession to a considerable freehold estate, but of what the said estate consisted, and where situate, this Defendant is unable to set forth. And this Defendant believes, that the said estate was, sometime after his the said Testator's death, sold and disposed of by the said W. H., S. H., and R. B., but this Defendant doth not know by whom in particular, or for what sums of money, or by whom the same were received. And this Defendant believes, that the said W. H., S. H., and R. B. possessed themselves of, and got in and received all the personal estate and effects of the said Testator, and that the same, together with the money arising from the sale of the said real estate, was greatly more than sufficient to pay

pay and satisfy all the debts and funeral expenses of the said Testator, and the several pecuniary legacies bequeathed by his said will.

And this Defendant answering as aforesaid saith, he believes that the said Testator left H. R. his widow, and E. R. his eldest son and heir at law, and such other children as in the said bill of complaint is mentioned. And this Defendant saith, that E. R. one of the said children, intermarried with J. M., and that the said E. R., afterwards M., hath since departed this life, leaving this Defendant her only child. And this Defendant saith, that he is an infant of the age of years, or thereabouts, and humbly submits his rights and interests in the matters in question to the protection of this honorable Court.

Answer insisting on a stated Account, and Statute of Limitations as a Bar to Plaintiff's Demand.

These Defendants, &c. that Defendants, on or about, &c. sent to Plaintiff, as agents for his father, the late Sir J. G. bart. deceased, a stated account, on balance of which said account there appeared, and then was justly due to Defendants from said Sir J. G. the sum of £ , which account said Plaintiff, by letter dated, &c. acknowledged that he had received, and made no doubt of its being right; and said account was then and from that time subject and open to the inspection, examination, and objection of said Sir J. G., or Plaintiff, or of any accomptant, merchant, or other person, to be employed by them or either of them, for years after said account was so stated and delivered, but no objection was made to same at any time within years, nor any demand made, or process sued out against Defendants, or either of them, in order to make them account or alter the same in any respect within years from the time of such statement and delivery. And Defendants insist, that if Plaintiff, or Sir J. G., or his executors, had any cause of complaint against Defendants, owing to any overcharge in any of the items or articles of said account, by demand, action, or suit, or otherwise, the same did arise or accrue above years before said Plaintiff's commencing his said suit, or serving Defendants with process to appear and answer thereto, and therefore such demand, action, or suit, within the true reason of the statute made in the twenty-first year of the reign of his majesty king James I. for the limitations of actions, and avoiding of suits, should have been pursued, if at all, within that time.

Say, that they did not at any time before the expiration of years, or since that time, agree to come to any account, or to make any satisfaction, or to reduce the said demands on such balance, as in justice and equity they submit they need not; insist that Plaintiff, not only from the fairness and justice of the several items or articles in said account, but also from the long usage that Defendants and their predecessors had in making such charges, and the acquiescence, as well of Plaintiff as of Sir J. G. and his executors in the same, ought not to controvert or dispute same, or any of the items or articles therein, and the rather, as Plaintiff himself at several times since the delivery to him of the aforesaid account, admitted, as Defendants believe and hope to prove, that the charges

charges and items made by Defendants in said account were reasonable, fair and just, and that he had no objection to the same, or to any of them.

Say, that the said account was always considered, after it was so delivered as aforesaid, to be an account finally settled, concluded, and agreed upon, and that though there was not a particular acknowledgement in writing to shew it was so agreed upon, that being an unusual precaution with Defendants, and in some degree needless, the said items and charges having been so long used, known, and approved of, yet as well for the several reasons above mentioned, as by Plaintiff regularly stating the said balance as the foundation of Defendants' subsequent debt due from sir J. G. as an acknowledged debt, same must be considered as a stated and settled debt.

Answer by an Executor, an accounting Party to a Bill by Legatee.

Answer of P. M., one of the Defendants to the original and amended bill of complaint of T. M. Complainant.

This Defendant, &c. He this Defendant answering saith, he admits that the Testator S. M. in the said Complainant's bill named, was, at the time of making his will and codicil, and at the time of his death, seized or entitled in fee-simple of and to certain real estates, the names whereof this Defendant hath set forth in the first schedule to this his answer annexed, and which he prays may be taken as part thereof.

And this Defendant further answering saith, that the said Testator, after making and publishing his said will and codicil, purchased certain other real estates, which this Defendant hath also specified in the said schedule. And this Defendant has never heard, nor does he believe that the said Testator ever republished his said will and codicil, or either of them, after making such last mentioned purchases, and therefore he submits such after-purchased lands descended upon him as the heir at law of the said Testator.

And this Defendant further answering saith, he admits that the said Testator was, at the time of his death, possessed of and entitled to a personal estate, consisting of such particulars as in the said Complainant's bill mentioned, and more particularly set forth in the second schedule to this Defendant's answer annexed, and which he prays may also be taken as part thereof. And this Defendant further saith, he believes that the said Testator, when he was of sound and disposing mind, memory and understanding, duly made and published his last will and testament in writing, bearing date on or about the , in such words, and to such purport and effect as in the said Complainant's bill mentioned, so far as the same is therein set forth.

And this Defendant further saith, he believes that the said Testator duly made a codicil to his said will, bearing date the , to such purport and effect as in the said Complainant's bill mentioned, and that such will and codicil were duly executed, so as to pass lands of inheritance.

ritance. And this Defendant further saith, the Complainant has in his said bill very shortly stated the said will, which this Defendant apprehends admits of some doubt as to the true construction thereof, and which said will and codicil are in the following words, (that is to say,) &c. &c. And this Defendant further saith, that the codicil to the said will was in the words and figures following, (that is to say,) &c. &c.

And this Defendant further answering saith, he believes that the said Testator S. M. departed this life on or about the , without revoking or altering the said will and codicil, save as the said will is altered by the said codicil.

And this Defendant further answering saith, he admits that the said Testator left this Defendant his heir at law, and the said Complainant and the other natural children named in the said will and codicil him surviving.

And this Defendant further answering saith, he admits that he this Defendant alone proved the said will and codicil, in the Prerogative Court of the archbishop of B., and this Defendant possessed all the personal estate of the said Testator to the amount mentioned and set forth in the second schedule to this Defendant's answer annexed.

And this Defendant further answering saith, he admits that he hath entered upon the said Testator's real estates, of which the said Testator was possessed at the time of making his said will and codicil, and received the rents and profits thereof for such length of time, and to such amount as is mentioned and set forth in the second schedule to this Defendant's answer annexed.

And this Defendant further answering saith, that since the death of the said Testator he hath sold and disposed of the said real estates which the said Testator possessed at the time of making his said will and codicil, the particulars of which, and the amount thereof, this Defendant hath set forth in the said second schedule to this Defendant's answer annexed.

And this Defendant further answering saith, that he did employ part of the money arising from the real and personal estate of the said Testator, in fulfilling such contracts as the said Testator was engaged in at the time of his death, and which is accounted for in the said second schedule to this Defendant's answer annexed, whereby it will appear what interest, profit, or advantage hath been made by such monies so employed; and this Defendant also employed part of such monies in his trade.

And this Defendant further answering saith, that he hath in the said second schedule to this Defendant's answer annexed, calculated the amount of government securities which the said Testator's estate, come to the hands of this Defendant, would have purchased, if the same had been by this Defendant from time to time laid out in government securities, and for which this Defendant submits to answer to account, as part of the personal estate of the said Testator, subject to the demands to which such personal estate is liable.

And this Defendant further saith, that he hath in the first schedule to this his answer annexed, set forth a full, true, just, and particular account, of all and every the real estates which the said Testator was seized of or entitled to in fee-simple at the time of making his said will and codicil,

and

and which he continued to be seized at the time of his death, with the name or names thereof, and of each and every part thereof, and where the same, and each and every part thereof is situate; and in the second schedule, the yearly value thereof, and of each and every part thereof, and in whose tenure or occupation the same, and each and every part thereof, now is, and from time to time since the death of the said Testator hath been, and under what yearly or other rent or rents, and what part of the time since the death of the said Testator this Defendant hath been in possession or receipt of the rents and profits thereof, and of what parts thereof, and who hath been, and for how long time, in possession of the receipts of the rents and profits thereof, and of each and every part thereof.

And this Defendant further answering saith, he hath in the said second schedule to this his answer annexed, set forth a full, true, perfect, and particular account, of the rents and profits of the said premises received by him, or by any person by his order, or for his use; and also a full, true, and particular account of all and every sum and sums which have or hath at any time, and when, been received by this Defendant, or by any other person or persons by his order, or for his use, for or on account of the rents and profits of the said estates, or any part thereof, become due since the death of the said Testator, or for or on account of the sale of the said estates, or any part or parts thereof.

And this Defendant further answering saith, he hath in the said second schedule to this his answer annexed, set forth a full, true, and particular inventory of all and singular the goods, chattels, and personal estate and effects whatsoever, which the said Testator was possessed of, entitled to, or interested in, at the time of his death, and all the particulars whereof the same consisted, and the natures, kinds, quantities, full, true, and real values thereof, and of every part thereof, together with such particulars as have been possessed or received by, or come to the hands of this Defendant, or of any other person or persons by his order, or for his use, and how, and in what manner, and when, and where, and by whom, and to whom, and for how much the same and every part thereof hath been sold or disposed of. And this Defendant saith, he believes that the said Complainant attained his age of twenty-one years sometime since.

And this Defendant further answering saith, he admits that the said Complainant hath made such applications and requests to this Defendant, as in the said Complainant's bill mentioned.

And this Defendant further answering saith, that he hath not refused to comply therewith, but as there are some doubts as to the true construction of the said will, and several parties entitled, to all of whom this Defendant is to account, he this Defendant is desirous to act in the premises as executor of the said S. M. deceased, under the directions and indemnity of this honorable Court.

W. C.

Answer of Executrix submitting to act as the Court may direct.

This Defendant, &c. saith, S. W. the Testator in the said bill named, was, at the time of his death, possessed of a considerable personal estate, and

and particularly of the several sums in public stocks or funds in said bill of complaint mentioned; and that said Testator duly made and published such last will and codicil thereto, of such respective dates, and to such purport or effect, as in said bill in that behalf stated. But nevertheless, &c.

Believes that said Testator did, soon after making said will and codicil, depart this life, without altering or revoking said will, save by said codicil, or without altering or revoking said codicil, leaving this Defendant his widow, and such other persons as in said bill in that behalf named, him surviving.

Admits, that she hath duly proved said will and codicil in the proper Ecclesiastical Court, and hath taken upon herself the execution thereof, and hath by virtue thereof possessed herself of as much of said Testator's personal estate and effects as she has been able to do. And this Defendant denies that she ever threatened to sell or dispose of said stocks, funds, and annuities, in said will and bill mentioned, without any regard to the interest of said Complainants in remainder therein, or hath made any transfer of the same.

Submits to this honorable Court what interest said Complainants are entitled to in the personal estate of said S. W. by virtue of said will.

Saith she hath in a schedule, &c. set forth a full, true, and particular account of all the personal estate to which said Testator was entitled at his death, distinguishing what part thereof hath come to her hands, or to the hands of any other person or persons for her use, except such sums as are mentioned in the schedule hereinafter referred to.

Saith she hath in the second schedule, &c. set forth an account current between her and the estate of said S. W., and this Defendant hath therein set forth, to the best of her knowledge, &c. a full and true account of all sums of money, part of the personal estate of said Testator come to her hands, or of any person or persons to her use, and of the application thereof.

Saith she is ready and willing to account, as this honorable Court shall direct, for all such parts of the personal estate of said Testator as have been possessed or received by this Defendant, having all just and reasonable allowances made, which she is entitled to as such executrix. And in all other respects this Defendant submits to act as the Court shall direct, upon being indemnified and paid her costs of this suit. And denies, &c.

W. A.

Answer of Executrix, submitting to Account, but denying Assets.

This Defendant, &c. believes it to be true, that her late husband A. J. deceased, having borrowed of, or being otherwise indebted to R. H., in the said bill of complaint named, in the sum of £ , did, for securing the repayment thereof with interest, duly execute a bond or obligation in writing, of such date, tenor and effect as in the said bill of complaint in that behalf stated, but for her greater certainty, &c. And this Defendant, &c. believes it to be true, that the said A. J. did, in his lifetime, make some payment or payments to the said R. H. on account of
the

the said bond, but did not wholly discharge the same. But this Defendant doth not know, nor can set forth the particulars of such payments, or what now remains due on the said bond. And, &c. that the said R. H. hath since departed this life, and that he duly made and published his last will and testament in writing, and thereby appointed the said Complainant R. B. sole executor thereof, and that said Complainant hath since duly proved the said will, and is now the sole personal representative of the said R. H. but this Defendant knowing nothing of the said several matters of her own knowledge, craves leave, &c. And this, &c. that the said A. J. was at his death indebted to the Complainants A. P. and S. M. on the account in the said bill of complaint in that behalf mentioned, in some sum of money, but in what particular sum this Defendant is unable to set forth. And this, &c. that the said Defendant A. J. hath lately departed this life, having first duly made and published his last will and testament in writing, and thereby appointed this Defendant the sole executrix thereof, and this Defendant hath since duly proved the said will in the proper Ecclesiastical Court, and taken upon herself the execution thereof, and hath possessed herself of the said Testator's personal estate and effects, so far as she hath been able. But this Defendant denies that the personal estate and effects so possessed or received by her are sufficient to pay the said Testator's funeral expenses and just debts. And this Defendant on the contrary believes them to be wholly insufficient for the said purpose. And this Defendant saith, she is ready to account for the personal estate and effects of the said A. J. which have come or shall come to her hands or use, in such manner as this honorable Court shall please to direct. And this Defendant denies, &c.

J. L.

Answer of a Defendant, Trustee under a nuncupative Will.

The answer of M. Y., one of the Defendants to the bill of complaint of G. W., an infant under the age of twenty-one years, by J. B. his next friend.

This Defendant, saving and reserving, &c. answereth and saith, he believes it to be true that W. W., the Testator in the said bill named, did, on or about the day of , duly make and publish his last will and testament, being a nuncupative will, in manner in the said bill in that behalf mentioned; and that the said will, with the signatures in the said bill mentioned, is in such words and figures, or to such effect as in the said bill in that behalf set forth, but for certainty as to the date and contents of the said will, this Defendant craves leave to refer to the probate thereof when produced, &c. And this Defendant saith, he believes and admits it to be true, that the said Testator departed this life on or about the day of the same month of , and that he at his death left the said Complainant and W. W. the younger, in the said bill named, his two natural sons him surviving, as mentioned in the said bill.

And this Defendant admits it to be true, that soon after the said Testator's

tator's death the said will was in due form proved in the Prerogative Court of the province of C., and that letters of administration of the goods and chattels, rights and credits of the said Testator, with his said will annexed, were duly granted by the said Court to this Defendant; and that this Defendant possessed and received all such parts of the said Testator's personal estate and effects as he was able, and that he hath thereout paid all the said Testator's funeral expenses and debts, so far as the same have come to his knowledge, and the said legacy of £ , to the said W. W., and that there remained a considerable balance of the said personal estate in his hands.

And this Defendant saith, that he hath laid out all the surplus of the said Testator's personal estate which hath come to this Defendant's hands, and also the dividends and interest thereof from time to time (except some part thereof which hath been applied to the maintenance of the said Complainant as hereinafter mentioned,) in the purchase of 3 per cent. consolidated bank annuities, in the joint names of this Defendant and the said Complainant, and in consequence thereof the sum of £ of the said stock is now standing in their joint names in the books of the Governor and Company of the Bank of England.

And this Defendant saith, that he hath from time to time laid out and expended certain sums in the maintenance and education of the said Complainant, and hath lately entered into an engagement with Messrs. G., W., and P., calico-printers at D., to put the said Complainant apprentice to them, and to pay them the sum of £ as an apprentice fee for the said Complainant, and in consequence of such engagement, the said Complainant is now with the said Messrs. G., W., and P., as an apprentice.

And this Defendant submits, that he ought to have an allowance made to him out of the dividends and interest which have arisen from the surplus of the said Testator's estate, for all sums expended by him for maintenance of the said Complainant as aforesaid, and also for the said apprentice fee.

And this Defendant further saith, he believes it to be true, that the said W. W. the son, hath departed this life intestate, unmarried and without issue. And this Defendant submits to account for the said personal estate possessed by him, and to transfer the said stock into the name of the Accountant-General of this Court as this Court shall direct, but craves to have all just allowances made to him in such accounts, as well in respect of the said maintenance and apprentice fee, or otherwise. Without that, &c.

T. C. C.

Answer of the Attorney General to the above Suit, the Plaintiff being illegitimate.

This Defendant, saving and reserving to himself, on behalf of his Majesty, now, and at all times, &c. answering and saith, that he is a stranger to all and singular the matters and things in the said Complainant's bill of complaint contained, and therefore leaves the Plaintiff to make such proof thereof as he shall be able.

And

And this Defendant further answering saith, that he insists, on behalf of his Majesty, on all such right, title, and interest in the premises, in the said bill of complaint mentioned, as his said Majesty shall appear to have therein; and this Defendant humbly submits the same to the judgment, order, and direction of this honorable Court; and also humbly prays that this honorable Court will take care of his Majesty's right and interest in the premises. And denies, &c. Without that, &c.

J. M.

Answer of Defendant, Trustee submitting to act as the Court shall direct.

This Defendant, &c. admits it to be true, that such indentures of lease and release as in the said bill of complaint are stated to bear date, the, &c. were duly made and executed by and between such parties, and to such purport and effect as are therein set forth, so far as the same are therein set forth. But, for his greater certainty, nevertheless, this Defendant craves leave to refer to the said indentures, when produced. And this Defendant further answering, saith, he admits it to be true, that the intended marriage between the said Complainant, J. M. P. and E. P. was soon afterwards had and solemnized, and that the said other Complainants (the children) are the only children of the said marriage. And this Defendant admits, that he doth decline to act in the trusts of the said settlement, and that he is desirous of being discharged therefrom, and that he is ready to convey and release the said trust premises to the said Complainant, S. M. M., and such new trustee as may be appointed by this honorable Court, on being indemnified in that behalf, and paid all his costs and expenses.

W. W.

Answer of a Legatee to elect, to take under Will.

This Defendant, &c. answereth and saith, she believes it to be true that C. B. deceased, the Testator in the said bill of complaint named, being possessed of a large personal estate, did, at or about the time in the said bill of complaint mentioned, duly make and publish his last will and testament, in writing, of such purport and effect, and containing such bequest to this Defendant, as in the said bill of complaint in that behalf set forth, and that the said Testator appointed such persons as in the said bill of complaint named, executors and executrix of his said will. And, &c. that the said Testator afterwards, and at or about the time in the said bill of complaint mentioned, duly made and published a codicil to his said will, in such words, and to such purport and effect as in the said bill of complaint also set forth. But for her greater certainty, nevertheless, as to the said will and codicil, and the respective dates, purport, and contents thereof, this Defendant craves leave to refer thereto, when produced. And, &c. that the said Testator departed this life at or about the time in the said bill of complaint in that behalf mentioned, without having in any manner altered or revoked his said will, save by the said codicil, and without having altered or revoked the said codicil, and that the said Complainants since duly proved the said will and codicil in the

Prerogative

Prerogative Court of the archbishop of C. and taken upon themselves the executorship thereof, saith, she claims to be entitled to the benefits intended her by the said Testator's will, and is ready, upon the same being secured to her, according to the directions in the said will contained, to release to J. P. in the said will named, all her right and interest in and to the premises in the said will mentioned, and for that purpose, to execute all necessary instruments or deeds. And denies, &c.

J. L.

Answer to a Bill by Wife against Husband for a Legacy, claiming Legacy; Husband, an Executor, admitting Assets; joint Answer.

These Defendants, saving, &c. admit it to be true, that M. M. deceased, in the said bill named, was possessed of considerable personal estate, and that she made such will, of such date, purport, and effect, as in the said bill set forth, so far as the same is therein set forth, and thereby gave to the said complainant the legacy or sum of £ , in manner in the said bill mentioned, and nominated this Defendant, W. M. sole executor of her said will. But for greater certainty, these Defendants refer, &c. And these, &c. admit it to be true, that the said Testatrix departed this life at or about the time in the said bill in that behalf mentioned, and without altering or revoking her said will. And this Defendant, W. M. further answering, saith, he admits, and this Defendant, W. H. saith, he believes it to be true, that he, this Defendant, W. M. did duly prove the said will in the proper Ecclesiastical Court, and did undertake the execution thereof. And this Defendant, W. M. admits, that under and by virtue of the said will, he hath possessed himself of the said Testatrix's personal estate to an amount more than sufficient to pay and discharge her funeral expenses, just debts, and legacies; and particularly the said legacy of £ ; and that the said complainant hath applied to this Defendant to be paid the said legacy or sum of £ so given to her by the said will, as in the said bill mentioned, and that this Defendant, W. M. did refuse to pay the same to her without the consent and concurrence of this other Defendant, her husband, and without which this Defendant is advised, and humbly submits he could not safely pay the said legacy. And this Defendant further saith, he doth admit assets of the said Testatrix, come to his hands sufficient to answer the purposes aforesaid, and is ready and willing, and hereby submits to pay the said legacy to such person or persons, and in such manner as this honorable Court shall be pleased to direct. And this Defendant, F. H. saith, he claims to be, and humbly insists that he is, in right of the said Complainant, his wife, entitled to receive and be paid the said legacy, or sum of £ , so given to him by the said will as aforesaid, and humbly hopes the same will be ordered to be paid to him accordingly. And deny, &c.

E. K.

Answer by three Legatees to a Bill filed by Trustee under Settlement and Will, one Defendant an Infant.

These Defendants, now, &c. believe it to be true, that R. H. H., another of the Defendants to the said bill of complaint, duly made and executed a bond or obligation, in writing, to S. S., in the said bill named, of such date, in such penalty, and with such condition thereunder written, as in the said bill of complaint set forth, so far as the same is therein set forth; and that the stock in the said bond described, or the value of such stock in money, was paid or transferred to the said Defendant R. H. H. Believe it to be true, that such indenture of settlement, as in the said bill of complaint is stated to bear date the, &c. was duly made and executed, of such date, between such parties, and to such purport and effect, as in the said bill in that behalf mentioned and set forth, so far as the same is therein set forth, previous to a marriage then intended, and which these Defendants believe was soon afterwards duly had and solemnized between W. S., another of the Defendants to the said bill of complaint; and the said S. S., and of which marriage these Defendants believe there were no children; but these Defendants, for their greater certainty, nevertheless, as to the said bond or obligation, and the said indenture of settlement, and the date, purport, and effect thereof respectively, crave leave to refer thereto when produced. And, &c. believe it to be true, that F. R. S., in the said bill named, departed this life in the life-time of the said S. S., and that the said Complainant thereby became the surviving trustee under the said marriage settlement, and that the said S. S. departed this life at or about the time in that behalf in the said bill mentioned, having first duly made and published his last will and testament, in writing, or a paper-writing in the nature of a will, of such date, and to such purport and effect as in the said bill of complaint mentioned and set forth; and that such will or paper-writing was duly executed by two credible witnesses, as by the said indenture of settlement required; and, soon after the death of the said Testatrix, the said will, or testamentary paper, was duly proved in the Prerogative Court of the archbishop of C., by the said R. H. H., who took upon himself the execution thereof; but, for their greater certainty, nevertheless, these Defendants crave leave to refer to the probate of the said will, or writing in the nature of a will, when produced. And these Defendants say, that this Defendant E. S. is the person whom the said Testatrix intended to benefit by the gift and bequest in her said will "her sister-in-law Mrs. B. S.;" and that this Defendant S. E. S., who is the daughter of this Defendant E. S., is the person whom the said Testatrix intended to benefit by the gift or bequest in favor of "S. S." And, &c. believe it may be true, for any thing they know to the contrary, that the said Complainant caused a notice, in writing, of such date, and to such purport and effect as mentioned in the bill, to be delivered to the said Defendant R. H. H.; and that the said Defendant hath not complied with the terms of such notice, nor ever replaced the stock in the said bill mentioned, or repaid the value thereof, during the life-time of the said Testatrix S. S., or since her death; but these Defendants, knowing nothing of the several matters aforesaid, crave leave to refer the said Complainant

Complainant to proof thereof; and these Defendants E. S. and S. S. hereby insist on such right and interest in the said sum of stock, or the value thereof, as they shall appear to be entitled to under the said will or testamentary paper of the said S. S. And this Defendant H. S., being an infant under the age of twenty-one years, submits her right and interest in the premises to the care and protection of this honorable Court. And these said other Defendants deny all and all, &c.

The Answer of the Attorney-General to a Bill to perpetuate the Testimony of Witnesses to a Will.

The answer of, &c.

This Defendant, now, &c. answering saith, it may be true for any thing this Defendant knows to the contrary, that I. T. A., in the Complainant's bill named, was seized in fee-simple of such real estates as therein mentioned, and that he died at or about the time in the said bill in that behalf mentioned, without leaving an heir at law; but whether the said I. T. A. duly made and published such or any other last will and testament as in the said bill mentioned, or whether, if he so did, he the said I. T. A. was of sound mind, memory, and understanding, at the time of making and publishing the same, or whether the same was duly executed and attested, &c. or whether the said complaint is so, or otherwise entitled to the said estates, as in the said bill in that behalf mentioned, this Defendant, being an entire stranger to the several matters aforesaid, cannot set forth, but leaves the said Complainant to such proof thereof as he shall be advised to produce; and this Defendant, on behalf of his majesty, insists, that if the said I. T. A. died without leaving any heir at law, and without duly executing his will and testament, in writing, in such manner as by law is required for devising real estates, in that case his majesty has become entitled, by escheat, to all the estates of which the said I. T. A. died seized.

W. A.

Answer of Mortgagees of Trust Premises to a Bill for an Account of the Trust Property.

These Defendants, saving, &c. severally answer and say, they have been informed and believe that such indentures of lease and release and assignment, as are in the said bill mentioned, to bear date respectively on or about, &c. between such parties, and of, or to such, or the like effect, as in the said bill for that purpose stated and set forth, were made and executed; but these Defendants, for their greater certainty, as to the said indentures of lease, release, and assignment, and the dates, purport, and contents thereof respectively, crave leave to refer thereto, when the same shall be produced to this honorable Court.

D D 2

Say,

Say, that by indentures of lease and release, bearing date respectively the, &c. the release being of four parts, and made, or mentioned to be made, between, &c. (*set out the material parts of the mortgage deed,*) as in and by the said indentures of lease and release, when the same shall be respectively produced to this honorable Court will more fully and at large appear.

Say, that as to all the other matters and transactions in the said bill of complaint stated, these Defendants are utterly strangers thereto, save as appears from the allegations contained in the said bill of complaint.

Say, that the said sum of £ so secured to them as aforesaid, is now wholly due and owing to these Defendants, together with a considerable arrear of interest thereon; and these Defendants humbly insist that they are entitled to the payment of the said £ , and of all interest due and to grow due thereon, in priority to all other the incumbrances affecting the said mortgaged premises. And these Defendants deny all and all manner of unlawful combination and confederacy. Without that, &c.

Answer to Bill of Foreclosure.

This Defendant, &c. answereth and saith, he admits it to be true, that this Defendant did, at or about the time in the said bill of complaint in that behalf mentioned, borrow the sum of £ from A. W. the elder, in the said bill of complaint named, and that thereupon such indenture of bargain and sale, and such bond, as in the said bill of complaint are set forth, were duly made and executed by and between this Defendant and the said A. W., and were of such date, and to such purport and effect as in the said bill of complaint in that behalf stated; but for his greater certainty, nevertheless, as to the said indenture and bond, and the respective dates, purport, and effect thereof, this Defendant craves leave to refer thereto when produced. And, &c. admits it to be true, that the said A. W. the elder, departed this life before payment of the said principal money, or any part thereof. And this Defendant saith it may be true, for any thing this Defendant knows to the contrary, that the said A. W. the elder, left A. W. the younger, in the said bill of complaint also named, his eldest son and heir at law, him surviving, and that he had first duly made and published his last will and testament, in writing, and thereby appointed the said Complainant T. W. and the said A. W. the younger, and L. W., since deceased, executors thereof, and that the said executors duly proved the said will in the proper Ecclesiastical Court, and that the said will did not in any manner affect the said mortgaged premises, and that the legal estate and interest therein descended on and vested in the said A. W. the younger; and that such indenture, as in the said bill of complaint is stated to bear date, &c. was duly made and executed by and between such parties, and to such purport, as in the said bill of complaint set forth; and that the said A. W. the younger departed this life at or about the time in the said bill of complaint in that behalf mentioned, leaving the said Complainant G. W. an infant, his eldest

son

son and heir at law, him surviving; and that he had first duly made and published his last will and testament, in writing, of such date as in the said bill of complaint mentioned, and thereby appointed the said Complainants T. W., &c. executors thereof, and that the said Complainants duly proved the said will in the proper Ecclesiastical Court, and that the said will did not in any manner affect the said premises, and that the legal estate and interest therein descended upon and is now vested in the said Complainant G. W.; and that the said T. W. departed this life soon after the death of the said last mentioned Testator, and that thereupon the said Complainant T. W. became also the surviving executor of the said A. W. the elder; but this Defendant, knowing nothing of the said several matters aforesaid, save as he is informed by the said bill of complaint, and therefore craves leave to refer the said Complainants to such proof thereof as they shall be able to make. And this Defendant admits, that the said principal sum of £ , or any part thereof, hath not yet been paid, and that the same now remains due and owing from this Defendant on the security of the said mortgaged premises, together with an arrear of interest thereon from, &c.; but this Defendant denies that the said mortgaged premises are a scanty security for the same, and on the contrary thereof this Defendant saith, that the said mortgaged premises are of the value of £ and upwards. And this Defendant saith, that there is no other charge or incumbrance affecting the said mortgaged premises. And this Defendant trusts this honorable Court will allow him a reasonable time, for the redemption of the said premises. And denies, &c.

Answer claiming an Exemption as to Great Tithes, setting up a Modus as to Part of Small Tithes, and accounting as to the Remainder.

This Defendant, &c. saith he doth not know or believe, that the vicar for the time being of the vicarage and parish church of M. T., in the county of Y., hath at any time been entitled to have and receive, to his own use, the tithes, both great and small, of the several titheable matters and things from time to time arising, growing, increasing, and renewing within the said vicarage, and the titheable places thereof, except as in the said bill excepted, or other than as hereinafter is mentioned, so far as applies to the farm and lands which are occupied by this Defendant.

Saith he believes it to be true, that the said vicarage became vacant by the death of the preceding incumbent, at or about the time in the said bill mentioned; and that the Plaintiff was shortly afterwards duly and lawfully presented, instituted, and inducted into the vicarage and parish church of M. T. aforesaid, and that he might, soon after his induction, duly qualify himself to act and officiate as vicar thereof, and that he hath ever since acted and officiated, and now acts and officiates in the cure of the said vicarage, and that he may be well entitled to have, take, and receive, to his own use, from the death of the last incumbent, all such tithes, and payments in lieu of tithes, as his predecessors, the former
vicars

vicars of the said parish, were lawfully entitled to have, take, and receive within the said parish, and the titheable places thereof.

Saith he admits it to be true, that from and since the day of , this Defendant hath held and occupied, and still holds and occupies, within the said vicarage, and the titheable places thereof, a certain antient farm, called or known by the name of C. G. farm, consisting of a farm-house and out-buildings, and acres of land, or thereabouts.

Saith, that the said antient farm was, at the time of the dissolution of the late dissolved abbey of F., in the county of Y., and from time to time, and at all times, from time whereof the memory of man is not to the contrary, had been parcel of the said late dissolved abbey, and with the rest of the possessions of the said late dissolved abbey, which was one of the greater abbies, and had possessions of the value of £ a year, was given and surrendered unto, and came into the hands of his late majesty king Henry 8. under and by virtue of the act of parliament made and passed in the thirty-first year of the reign of his said late majesty, entitled "An act for dissolution of monasteries and abbies." And this Defendant believes, that from time to time, and at all times, from time whereof the memory of man is not to the contrary, down to, and at the time of the dissolution of the said late dissolved abbey of F., the said antient farm was holden and occupied by the said late dissolved abbey discharged and acquitted of and from the payment of all great tithes; and that by means thereof, and by force of the said late act of parliament passed in the thirty-first year of the reign of his said late majesty king Henry 8, the said antient farm continued to be, and hath ever since the passing of the said last-mentioned act of parliament, been and now is discharged and acquitted from the payment of all great tithes.

Saith, that from time whereof the memory of man is not to the contrary, there hath been paid and payable, and of right ought to be paid to the vicar for the time being of the said vicarage and parish of M. T. aforesaid, by the occupier or occupiers for the time being of the said antient farm, the several moduses hereinafter stated, (that is to say) yearly at the sum of for every milch cow; and the sum of for every gelt cow kept and fed upon the said antient farm, in lieu of the tithe of milk; and also at the sum of for every foal yielded and brought forth upon the said antient farm, in lieu of the tithe of foals; and also at the sum of for every hive of bees kept on the said antient farm, in lieu of the tithe of honey and bees'-wax; and also at the sum of for every person in the family of such occupier or occupiers who did or ought to receive the holy communion, in lieu of Easter offerings; and on day the sum of for every householder on the said antient farm, in lieu of the tithe of poultry and eggs.

Believes, that the vicar for the time being is entitled to have and receive in kind all other the small tithes (except the tithe of agistment) arising, growing, renewing, and increasing in and upon the said antient farm.

Saith he admits it to be true, that he hath, since the said day of , grown, cut, and carried from off the said antient farm, considerable quantities of wheat, barley, oats, beans, and other grain and hay, without setting out the tithe thereof, or making any satisfaction to the

the Plaintiff for the same, or any part thereof, inasmuch, as for the reasons aforesaid, no tithe was due to the Plaintiff in respect thereof, the same being great tithes; and Defendant, for the same reason, hath not herein set forth an account of such corn, grain, or hay.

Saith, that in the month of , this Defendant paid to the agent of said Plaintiff, the sum of £ in full satisfaction for all such tithes and moduses, in lieu of such tithes due to the said Plaintiff up to ; and the said then accepted the said sum of £ on the part of the said Plaintiff, in full satisfaction of all such small tithes and moduses up to , and gave this Defendant a receipt for the same as for one year's tithes due to the said Plaintiff at then last.

Saith, that the pasture-lands of his said farm consists of acres, or thereabouts, of the yearly value of per acre, as he computed the same, and that from to there was bred upon his said farm calves, pigs, and geese, and that fleeces of wool, of the value of , or thereabouts, are due to the Plaintiff for or in respect of the tithe of wool arising on the said farm during the same period, but that no lambs were bred thereon.

Saith, that he had growing upon his said farm in that year acre of turnips, which he computed to be of the value of £ , or thereabouts, and that from the middle of the month of to the middle of the month of , in the said year , he depastured upon his said farm two years old heifers, and two years old steers, together also with sheep.

Saith, that, to the best of his recollection and belief, he had not, between and , growing, renewing, arising, or increasing upon his said farm and lands in his occupation, in the said parish of M. T., or the titheable places thereof, any titheable matters or things, except as aforesaid.

Saith, that he believes that none of the vicars of the said parish ever received any tithe of agistment within the said parish, or any satisfaction for the same; and he therefore submits, and humbly insists, that the vicars of the said parish are not entitled to any tithe of agistment arising within, upon, or from his said ancient farm, or any satisfaction for the same.

Saith, that he hath not, since the day of , had more than persons in his family, for whom Easter offerings were or are payable, and that he paid and rendered to the rev. , the curate and agent of the Plaintiff, the Easter offerings which were due at Easter , Easter , and Easter , as the same became due and payable; and that by the immemorial usage and custom of the said parish only is due from each such person yearly for Easter offerings.

Saith, that he is, and at all times hath been, ready and desirous to account for and pay to the Plaintiff what is due to him for the tithes arising upon or from, or due or payable in respect of his said farm.

Answer of East India Company to Bill for Tithes by Lay Impropriators.

These Defendants, &c. say they have heard and believe, that said Plaintiff is now seized of or entitled to the impropriate rectory of , in said bill mentioned, but how long he hath been seized of or entitled to said rectory, or whether or not from the year , or from any other time, Defendants know not, nor can any how set forth, nor do they know, nor can they set forth, save as after mentioned, whether or not Plaintiff, as such impropriator or impropriate rector, or otherwise, is, or not now, or hath, or not since said year , or any other time, been entitled to have, receive, or enjoy, for his own use, any tithes, rates for tithes, sums, or customary payments, or other duties in lieu of tithes, for the houses, shops, warehouses, cellars, stables, and other buildings of the citizens and inhabitants of that part of the said parish which lies within the city of L., and the liberties thereof, as in the bill stated, or otherwise.

Admit, that such act of parliament, as in the bill mentioned, was made and passed in the reign of his late majesty king Henry 8, and that such decree, as in the bill set forth, was made in pursuance of the said act of parliament, though Defendants, for greater certainty as to particular contents of said act and of said decree, crave leave to refer when produced to this honorable Court.

Admit, that they have, ever since the year , occupied, and do now occupy, and are the owners of several stacks of warehouses, and dwelling-houses for their warehouse-keepers and servants, and waste ground, situate in or near G. L. and H. A., all which are in that part of the said parish of , which is within said city of L., and was built by Defendants.

Say, that having built, and themselves the owners of said warehouses and dwelling-houses, they do not now, nor ever did hold the same, or any part thereof, under any yearly or other rent, or for any consideration in the nature or in lieu of rent, nor hath any yearly or other rent, or for any consideration in the nature or in lieu of rent, nor hath any yearly or other rent at any time been paid for said warehouses, dwelling-houses, or ground, though Defendants say they do apprehend and believe, that certain dwelling-houses, or some edifices or buildings were formerly erected and did stand upon scite of or upon the same pieces or parcels of land or ground on which Defendants' said warehouses and dwelling-houses have been since erected or built, and do now stand as aforesaid; and that some yearly or other rents, or payment in the nature of rents, were reserved or made payable for or in respect of such dwelling-houses, or other edifices and buildings, or the ground on which the same stood, but they are unable to set forth, as to their knowledge, or otherwise, what such rents or payments were, or whether they were paid or not, except that they say they have always understood or believed, and do now understand or believe, that such houses or buildings were inhabited or occupied by persons of very low descriptions and necessitous circumstances, and therefore not likely to pay or make good any rents or payments whatever in respect thereof.

Say

Say they do not now inhabit or occupy, nor have they inhabited or occupied, since the said year or during any part of that time, any messuages or dwelling-houses, warehouses, yards, sheds, wharfs, quays, stables, or other edifices, buildings, and premises, situate within that part of the said rectory and parish which is in the city of L. or the liberties thereof, save as aforesaid.

Say they are advised, and humbly insist, that Plaintiff, as the lay impropiator of said parish or rectory, is not entitled, under or by virtue, either of the act of parliament, or the decree in bill mentioned, or otherwise, to any tithes or yearly or other payments, in the nature or in lieu of tithes, for or in respect of the said warehouses and dwelling houses of Defendants, or any of them, inasmuch as they have also been advised and do conceive that said act of parliament, and the said decree, were both made with a view to the clergy of L. and not to lay impropiators, and there is not any custom to warrant the demand of any such tithes, or payments in lieu thereof.

Admit, that having been so advised, they have not paid, but on the contrary, have refused to pay any sums or sum of money to Plaintiff, or to any person for his use, since the year , for or in respect of tithes or dues for these Defendants' said warehouses and dwelling houses, or any of them, save and except, that certain of their said warehouses having been built previous to the year , and Plaintiff having in the month of in that year, made a demand to be paid tithes thereon, at the rate of in the pound on the yearly sum of £ , such being, as Defendants believe, the sum said warehouses were rated at to the land-tax. And Defendants not having sufficiently investigated the right of Plaintiff to make such demand, Defendants did then submit to make such payment to Plaintiff, and they have continued to make the same up to last. But they do, for the reasons aforesaid, insist that such payment hath been made in their own wrong, and through ignorance of their own rights, and are therefore not bound to continue same for the future.

*Answer of the Attorney-General insisting on an Escheat
in case no Will made, and no Heir.*

This Defendant, saving, &c. answereth and saith, that he is a stranger to all and singular the matters and things in the Complainant's said bill of complaint contained, and submitteth the same to the judgment of this honorable Court. But insists, on his majesty's behalf, that in case it shall appear, that sir D. D. late of, &c. deceased, in the Complainant's bill named, died without leaving any person or persons, a subject or subjects of Great Britain, his heir or heirs at law, and without having duly made and published his last will and testament, in the presence of credible witnesses, and with all the solemnities of law requisite to devise or affect a real estate, at the time of his being of sound and disposing mind, memory, and understanding, that then, and in such case, his majesty is well entitled by escheat to all and singular the freehold messuages, lands, tenements, and hereditaments, of which the said sir D. D. died seized or entitled in fee-simple. And therefore, this Defendant prays that this Court will take

care

care of such right and interest, if any, as shall appear to be in his majesty. Without that, &c.

Answer of the Attorney-General on behalf of a Charity.

This Defendant, &c. answereth and saith, that he is a stranger to all and singular the matters and things in the said bill of complaint contained, and leaves the same to such proofs as the Complainant can make thereof, and submits the same to the judgment, order and directions of this honorable Court, and prays that this Court will take care of the charity in the bill mentioned, and give proper directions for the settling and establishing thereof. Without that, &c.

Answer of Heir at Law to a Bill to prove a Will.

This Defendant, &c. believes it to be true, that W. H. B. in said bill, was, in his life-time, and at the time of his death, seized or well entitled in fee-simple, of, and in such real estate and premises, as in said bill are mentioned to be devised by said will, and that said W. H. B. being so seized or entitled, did, at or about the time in bill mentioned, duly make and publish his last will and testament in writing, of such date, and in such words and figures, or to such purport and effect, as in said bill set forth, though, for certainty, &c. refers, &c. But whether said W. H. B. was of sound, &c. at the time of making and publishing said will, or whether same was duly executed, &c. or whether he departed this life without revoking or altering same, Defendant knows not, nor can set forth, but leaves Plaintiff to such proof thereof as she shall be advised or able to make respecting same, as this Defendant doth not admit the validity of said will.

Believes and admits Testator departed this life at or about the time in said bill mentioned, leaving Defendant, his nephew and heir at law, and that Plaintiff hath since duly proved said will in the proper Ecclesiastical Court.

R. S.

Answer of Lord of a Manor, on having seized Copyhold Premises, for want of a Tenant after three Proclamations.

This Defendant, &c. saith, he admits it to be true, that he this Defendant is lord of the manor of H. market, in the county of N. and that I. H. in the said bill of complaint named, was, in and before the month of seized to him, and to his heirs, according to the custom of the said manor, of and in, &c. (*describe the premises according to the Court Roll.*) And that, on or about the day of the said I. H. and M. A. H. his wife, in the said bill of complaint also named, conditionally surrendered all their and either of their messuages, lands, tenements, and hereditaments,

ditaments, holden and situate within the said manor, to the use of S. G. in the said bill of complaint mentioned, her heirs and assigns, by way of security for the sum of £ and lawful interest thereon. And this Defendant saith, that at a general court baron holden for the said manor, on or about the day of , and not as in the said bill of complaint in that behalf alleged, S. C. in the said bill of complaint also mentioned, was, under and by virtue of such bargain and sale, as in the said bill of complaint in that behalf set forth, admitted to all the said copyhold premises so surrendered by the said I. H. and M. A. H. to hold to her and her heirs, according to the custom of the said manor; and at the same court, an acquittance or satisfaction under the hand of the said S. C. as executrix of the said S. G. on the said surrender of the day of was presented and duly entered on the rolls of the said manor. And this Defendant, &c. saith, that he believes, at a general court baron, holden for the said manor, on or about the day of the death of the said S. C. was presented by the homage, and that who was the next heir to the said premises, was not known, and thereupon proclamation was duly made for any person or persons having right to the said premises to claim the same, and be admitted thereto; and at a general court baron, holden on the day of a second proclamation was duly made to the same effect. And at a general court baron, holden for the said manor, on the day of a third proclamation was made in like manner, and by reason that no person came into claim the said premises, or to be admitted thereto, a precept was issued at such last general court to the bailiff of the said manor, whereby he was commanded to seize, in the presence of two or more copyhold tenants of the said manor, all the said premises into the hands of the lord, for want of a tenant. And at a general court baron, holden for the said manor, on or about the day of S. T. the bailiff of the said manor, certified, that on the day of then last past, he the said S. T. had, in the presence of I. C. and T. D. two copyhold tenants of the said manor, entered upon and seized all the aforesaid premises into the hands of the lord, for want of a tenant thereto. But for his greater certainty, nevertheless, as to the several surrenders and other proceedings, this Defendant craves leave to refer to the court-rolls of the said manor, or to the copies thereof, when produced, &c. (And this Defendant saith, he is ready and willing to cause a court to be holden for the said manor, and to admit as tenant to the said premises, such person as this honorable Court shall be pleased to direct, being indemnified in that behalf, and paid his customary fine on such admission.) And this Defendant saith, that he is a stranger to all other the matters in the said bill of complaint contained. And denies, &c.

J. L.

Observations.—The seizure appears to have been absolute and not conditional, and if such a seizure be warranted by the custom of the manor, there seems no reason why the lord should not insist upon his title under it. In that case the end of the answer in the place of that part which is between crotchets, would run thus :

“ And this Defendant further answering, saith, that according to the
“ custom of the said manor of H. market, this Defendant, as lord of the
“ said

“ said manor, is become absolutely entitled to the said several premises, by virtue of the notices and proceedings aforesaid. And this Defendant humbly submits, that he ought not to be compelled to admit any tenant thereto, or to be restrained from proceeding to recover the same by ejectment.”

If the custom to entitle the lord be not clear, then the answer must stand as drawn ; otherwise the Defendant may be made to pay costs.

Part of Answer of Purchaser to Bill for specific Performance, who resists on the Ground of a defective Title.

This Defendant, &c. saith, that the said abstract was, on the part of this Defendant, laid before an eminent conveyancer for his opinion as to the title of the said Plaintiffs and the said Defendant E. M. H. to the said moiety of the said leasehold premises. And this Defendant was advised by such conveyancer, that it was doubtful from the will and codicils of the said Testator R. M. in the said bill of complaint stated, whether the said Testator meant that the said E. H. and S. A. by the bequest to them of the said leasehold premises in the third codicil contained, should take in any other character than as trustees. And that he could not therefore advise this Defendant to accept the title of the said premises without the concurrence of the persons who would have been entitled thereto under the will of the said Testator R. M. if that will had clearly remained in force, or under a decree of a Court of Equity. And this Defendant admits, that the said Complainants have been and are ready and willing to complete the said sale on their parts. And that the said Defendant, by reason of the said opinion of the said conveyancer, hath declined to perform the said agreement on his part, without the direction and indemnity of a Court of Equity, or the concurrence of the parties referred to in the said opinion. And this Defendant further saith, he believes that H. H. in the will of the said Testator R. M. named, departed this life some time since, leaving C. H. another Defendant to the said bill of complaint, him surviving. Denies combination, &c.

Answer by the Heir at Law, admitting the Will.

This Defendant, saving and reserving, &c. answereth and saith, she hath been informed, and believes, that I. S. late of, &c. departed this life on or about, &c. to the best of this Defendant's remembrance and belief of the time, without issue, leaving this Defendant his heir at law. And this Defendant further saith, she admits it to be true, that the said I. S. did, in his life-time, make and publish his last will and testament in writing, of such or the like date, purport or effect, as in the Complainant's bill is mentioned. And that such will was duly made, executed, and published,

published, in the presence of three credible witnesses, and that such witnesses did respectively subscribe their names as witnesses thereto in the said Testator's presence, in such manner as the law directs where lands and tenements are devised by will. And the said I. S. was of sound mind, memory and understanding, at the time of his making and executing such will. And that he did not at any time afterwards revoke or alter such will, but this Defendant, for her greater certainty of the date and contents of such will, craves leave to refer thereto, when the same shall be produced, &c. And this Defendant denies all, and all manner of combination, &c.

Answer to a Bill of Revivor, the Defendant being doubtful whether he can admit Assets.

These Defendants, &c. And these Defendants further severally answering, say, they admit it to be true, that the said T. B. in his lifetime, duly made and published his last will and testament in writing, and a codicil thereto, of such date respectively as in the said bill of revivor is mentioned in that behalf, and that he by such codicil appointed Defendants his executors, and that since his death Defendants duly proved the said last-mentioned will and codicil in the proper Ecclesiastical Court, and undertook the executorship thereof, and that they have possessed the said T. B.'s personal estate and effects so far as they have been conveniently able; and they believe (although they do not admit the same) that such personal estate as last-mentioned is sufficient to answer whatsoever might be due from the said T. B. at the time of his death to the estate of the said Testator D. D. if any thing were so due, but which these Defendants do not admit that there is: they these Defendants are unable to ascertain the amount thereof, and therefore are advised that they cannot with safety or propriety admit assets of the said Testator T. B. to be in their hands, sufficient to answer the same; but they will nevertheless be willing, and hereby submit to be examined on interrogatories in regard to the said last-mentioned Testator's personal estate, possessed by them, or for their use, if the same should be necessary. And these Defendants, under the circumstances aforesaid, submit, that it is not necessary for them to set forth in this their answer any account of the said Testator T. B.'s personal estate, possessed by them, or any of them, further than as aforesaid. And these Defendants further severally answer and say, they submit that the said suit and proceedings, which became abated on the death of the said T. B. may stand and be revived against them as such executors as aforesaid, and be restored to the same plight and condition in which they were at the time of the death of the said T. B. Without that, &c.

J. L.

Answer put in after Exceptions taken and allowed to former Answer.

This Defendant, saving and reserving to himself, as in and by his former answer to the said Complainant's said bill of complaint was saved and reserved,

scrved, for further answer thereto, or unto so much thereof as this Defendant is advised is material or necessary for him to make answer unto, answereth and saith, he admits it to be true, that this Defendant hath, by the Defendants T. N. L. and O. R., and by other booksellers employed by him, published and sold many copies of the edition of , published by this Defendant as in his former answer mentioned, and that the number of such copies sold by him amounts in the whole to or thereabouts, as nearly as this Defendant can set forth the same to his knowledge or belief; but this Defendant denies, that he is now proceeding, or threatens to proceed in publishing and selling the said book, having discontinued the sale thereof, as in this Defendant's former answer mentioned. And this Defendant further answering saith, that the profit which he hath made by such publication doth not exceed the sum of £ to the best of this Defendant's knowledge and belief; and this Defendant admits, that he hath applied the produce and profits of the said publication to his own use. And this Defendant saith, that he printed and published copies of the said book or work, and no more, and that he hath sold copies, and that there now remains copies in his own custody or power, or in the custody or power of other persons by his order, or for his use, as nearly as he can set forth the said several particulars, as to his knowledge or belief. And this Defendant hath, in a schedule to this his further answer annexed or underwritten, and which he prays may be taken as part thereof, set forth to the best of his knowledge, remembrance, information, and belief, a just and true account of all the sums of money which have arisen by the publication and sale of the said book, and of the profits which have arisen therefrom.

J. L.

Answer to Bill of Revivor, not admitting Assets.

These Defendants, saving, &c. say, they believe it to be true, that at or about the time in the said bill stated, R. W. in the said bill of revivor named, exhibited his original bill of complaint in this honorable Court against such parties, as Defendants thereto, as in the said bill are mentioned, thereby stating and praying to the effect in the said bill of revivor set forth, so far as the same is therein set forth, and that in consequence of the death of the said R. W. the said Complainant T. W. at or about the time in the said bill of revivor mentioned, exhibited his supplemental bill in this honorable Court, against such parties Defendants thereto, as therein mentioned, stating and praying to the effect in the said bill of revivor set forth, so far as the same is therein set forth. And that the said several Defendants in the said supplemental bill named, afterwards appeared and put in their answers thereto, and that such proceedings have since been had in the said cause, as in the said bill of revivor mentioned. But for their greater certainty nevertheless these Defendants crave leave to refer to the said original and supplemental bills, answers, and other proceedings now remaining filed as of record in this honorable Court, say, they admit it to be true, that before any further proceedings were had in the said cause, and at or about the time in the said bill of revivor

revivor in that behalf stated, G. R. one of the Defendants to the said original and supplemental bills, and one of the executors and trustees under the will of the Testator T. W. in the said bill of revivor named, and who hath principally acted in the trusts thereof, departed this life, having first duly made and published his last will and testament in writing, of such date as in the said bill of revivor mentioned, and thereof appointed these Defendants executors; and these Defendants admit, that since his death they have duly proved his said will in the proper Ecclesiastical Court, and undertaken the executorship thereof, and are thereby become his legal personal representatives, and that they possessed the said G. R.'s personal estate and effects so far as they have been conveniently able, and these Defendants believe (although they do not admit the same) that such personal estate and effects are sufficient to answer whatever might be due from the said G. R. at the time of his death to the estate of the said Testator T. W. if any thing were so due; but these Defendants, not knowing the amount thereof, are advised that they cannot with safety or propriety admits assets of their said Testator to be in their hands, sufficient to answer the same. And these Defendants say, they are ready to account for the said G. R.'s personal estate possessed by them, or for their use, in such manner as the Court shall be pleased to direct, if the same should become necessary, say, they submit that the said suit and proceedings which became abated on the death of the said G. R. may stand and be revived against them as such executors as aforesaid, and be restored to the same plight and condition in which they were in at the time of the death of the said G. R. Without that, &c.

Answer to Bill of Revivor and Supplement.

This Defendant, &c. believes it to be true, that, at or about the time in the said bill stated, the several persons therein in that behalf named, exhibited their original bill of complaint in this honorable Court, against such parties as Defendants thereto, as in the said bill are mentioned, thereby stating and praying to the effect in the said bill set forth, so far as the same is therein set forth. And that such decree, decretal order, bill of revivor, and other proceedings were had therein as in the said bill set forth; but for his greater certainty, nevertheless this Defendant craves leave to refer to the said original bill, decree, and other proceedings, now remaining as of record in this honorable Court. And this Defendant, &c. that A. W. in the said bill named, hath lately departed this life, and that the said A. W. duly made and published his last will and testament in writing, thereby appointed dame A. B. R. T. and this Defendant, executrix and executors thereof, as by such will, or the probate, &c. and that this Defendant hath since the death of the said A. W. alone duly proved his said will in the Pre-rogative Court of the archbishop of C. and is thereby become his legal personal representative of the said A. W. but this Defendant doth not know, nor can any how set forth who is the heir at law of the said A. W. And this Defendant saith, he doth not know, nor can form any belief, whether the said A. W. did or not, after the making of the report in the said bill mentioned,

mentioned, receive any sum or sums of money arising from the real and personal estate of the said D. G. the elder, the Testator, in the pleadings of this cause named, which ought to have been accounted for by him. But this Defendant saith, he admits that he hath received assets of the said A. W. sufficient to answer any such sum or sums of money, if it shall appear that any such were received and not accounted for by the said A. W. in his life-time. And this Defendant saith, that he is a stranger to the several other matters and things in the said bill inquired after. But submits that the said suit and the proceedings had therein, should stand and be revived against him this Defendant, as such personal representative as aforesaid.

Answer, stating Birth of Child, to a Supplemental Bill.

These Defendants, &c. say, they admit it to be true, that the several Complainants (*namé them*) exhibited their original bill of complaint in this honorable Court against this Defendant S. R. as Defendant thereto, thereby stating and praying to the effect in the said supplemental bill set forth, so far as the same is therein set forth. And that such decree and other proceedings were had therein, as in the said supplemental bill mentioned; but for greater certainty, &c. And this Defendant S. for herself saith, that at the time of the death of her former husband W. B. the intestate in the pleadings in this cause named, she was *ensient* with child, and that on or about, &c. she was delivered of a daughter, the said Complainant G. B. And these Defendants say, they admit it to be true, that they these Defendants have lately intermarried together. And these Defendants submit, that the said decree made on the hearing of the said original suit, may be prosecuted and carried into effect.

Answer of Assignees of Bankrupt to Bill of Supplement which made them Parties.

These Defendants, &c. believe it to be true, that Plaintiffs did, at or about the time in the bill in that behalf mentioned, exhibit their original bill against such parties Defendants, and thereby praying such relief and matters, or to such effect as in the said supplemental bill in that behalf is mentioned, and that the several Defendants thereto appeared.

Believe, that all the Defendants to said original bill, except Defendant I. B. have put in their answers to said bill, but for their, &c.

Believe, that by or under some order of this Court, the sum of £ has been paid into Court in this cause.

Admit it to be true, that, at or about the time in said supplemental bill, in that behalf mentioned, a commission of bankrupt, under the great seal of Great Britain, was awarded and issued against said Defendant I. B. and that he has been duly found and declared a bankrupt, and that

Defendants

Defendants have been duly chosen and appointed assignees of the said Defendant I. B. the bankrupt's estate and effects, and that an assignment thereof has been duly made and executed to Defendants, by a legal number of the commissioners named in, and acting under such commission, and therefore admit that Plaintiffs are entitled to such relief against Defendants as representing said Defendant I. B. as they were entitled to, or might have had against said Defendant I. B. if he had not become a bankrupt, but whether or not, the Plaintiffs were entitled to such relief against said Defendant I. B. as they have prayed, in and by their said original bill, or to any relief, either against said Defendant I. B. or against Defendants, touching the matters in said bill mentioned. Defendants say they do not know, nor can they set forth, for Defendants say they are strangers to the matters and transactions in said original bill mentioned, save as the same appear from the bill, and therefore Defendants say they crave leave to refer to the answer which said Defendant I. B. shall put in upon his oath to said bill.

Say, that as such assignees as aforesaid, they claim all such interest in the matters in question in said original suit, as said Defendant I. B. was, or should be found to be entitled.

Answer of an Assignee of a Bankrupt, to a Bill of Revivor and Supplement.

This Defendant, saying, &c. saith, he admits it to be true, that the said original bill of complaint, and the said several bills of revivor and supplement, were exhibited in this honorable Court, at or about the times, and between such parties, and to such tenor and effect respectively, as in the said bill of revivor and supplement of the said T. M. is in that behalf set forth, and that such proceedings were thereupon respectively had, as in the said bill of revivor and supplement of the said T. M. are in that behalf stated. But for greater certainty, &c. refers, &c.

Saith, that P. B. and T. R. who, together with this Defendant, at the time of the exhibiting of the aforesaid bill of revivor and supplement of the said A. S. deceased, were surviving assignees, and effects of I. W. a bankrupt in the said original bill and bills of revivor and supplement named, and as such assignees were Defendants to the said bill of revivor and supplement of the said A. S. deceased, and jointly with this Defendant put in their answer thereto, and the said P. B. and T. R. have both since departed this life, and this Defendant is thereby become the sole surviving assignee of the said estate and effects of the said T. W. And this Defendant as such assignee claims, &c. (*stating the bankrupt's claims upon the said lands, and the monies appearing due upon the general report which is set forth in the bill of revivor and supplement.*) Without that, &c.

An Answer of a single Defendant to a Bill of Revivor and Supplement.

The answer of W. L. one of the Defendants, to the bill of revivor and supplement of J. B. Complainant.

This Defendant, saying, &c. saith, he believes it to be true, that at or about the time in the said bill of revivor and supplement stated, the said J. B. exhibited her original bill of complaint in this honorable Court, which was afterwards duly amended by order thereof, duly obtained for that purpose, and that such bill so amended, was against such parties as Defendants thereto, as in the said bill are mentioned, thereby stating and praying to the effect in the said bill of revivor and supplement set forth, so far as the same is therein set forth, and that the said Defendants severally appeared and put in their answers to the said bill, and a replication was filed to some of such answers. And this Defendant further answering, saith, he believes it to be true, that before any further or other proceedings were had in the said cause, J. K. in the said bill named, departed this life, leaving I. K. her only son and heir at law, her surviving, whereby the said suit and proceedings therein as to her became abated; and that the said suit and proceedings having become so abated by the death of the said J. K. the said Complainant exhibited her bill of revivor in this honorable Court, against the said J. K. the younger, as the heir at law of the said J. K. thereby praying to the effect therein mentioned, and that such proceedings have been had in the said cause, as in the said bill of revivor and supplement mentioned. But for greater certainty, &c. And this, &c. admits it to be true, that before any further proceedings were had the said cause, S. L. the late wife of this Defendant, departed this life, leaving this Defendant, her husband, and W. E. L. another Defendant to the said bill of revivor and supplement, her only son and heir at law surviving.† And this Defendant saith, that articles of agreement, bearing date, &c. were made and entered into between this Defendant and his late wife, previous to their marriage, whereby, &c. (being the power of appointment reserved to her.) And this Defendant further saith, that the said S. L. did, in pursuance of the power given, and reserved to her by the before-mentioned articles, duly make and publish her last will and testament in writing, bearing date, &c. and which was executed and attested in the presence of three witnesses, whereby, &c. (*giving the estates to her husband*) but for his greater certainty, &c. And this Defendant saith, that the said S. L. departed this life without altering or revoking her said will. And this Defendant saith, that in case it shall appear, that this Defendant, by virtue of such articles and will, is entitled to any interest in the estate in question in this cause, then this Defendant claims the same. Without that, &c.

The Answer of the Heir at Law to same Suit, which is precisely the same down to the Cross.†

And this Defendant saith, he humbly insists, that upon the death of the said S. L. all her right and interest in the estate in question in this cause descended

descended to, and became vested in this Defendant, as her heir at law, and that if the said S. L. made any such will, as in the said bill of revivor and supplement in that behalf alledged, that such her right and interest in the said estates was in no manner affected thereby. And submits the cause may be revived, &c. (*in the usual words.*) Without that, &c.

*A Part of Answer to Inquiry, respecting Incumbrances,
&c. Schedule of Deeds.*

And this Defendant further answering, saith, he admits it to be true, that there are other charges and incumbrances affecting the said mortgaged premises. And this Defendant saith, he hath, in a schedule to this his answer annexed, or underwritten, and which he prays may be taken as part thereof, set forth, according to the best of his knowledge, remembrance, information and belief, the particulars of all and every such mortgages or other charges, and the dates thereof respectively, and the sum and sums of money thereby respectively secured, and the name and names of the grantees or mortgagees thereof, and also the name and names of the person and persons in whom the same are now respectively vested, or last were vested. And this Defendant hath also in the said schedule to this his answer annexed, set forth a full, true, and particular list or schedule of all deeds and instruments whatsoever, relating to the said mortgaged premises which are now in the custody or power of this Defendant; and this Defendant is ready to produce and leave the same in the hands of his clerk in court, for the usual purposes.

*Concluding Part of an Answer of next of Kin, to Bill of
Revivor and Supplement, by eldest Brother.*

Admit it to be true, that before any further proceedings were had in the said cause, and at or about the time in the said bill of revivor and supplement mentioned, the said late Complainant G. D. departed this life under the age of 21 years, intestate and without issue, leaving the said Complainant D. D. his brother of the whole blood, S. D. another Defendant in the said bill of revivor and supplement named, his only sister of the whole blood, and this Defendant P. C. his mother, and these Defendants A. B. and C. his brothers of the half blood, his next of kin, him surviving. And this Defendant P. C. admits that she hath, since the death of the said G. D. her son, procured letters of administration of his personal estate and effects, to be granted to her, by and out of the proper Ecclesiastical Court, and is thereby become the legal personal representative of the said G. D. as in and by, &c. And these Defendants C. C. and P. C. say, that the Defendants A. B. and C. are the only children of the said Defendants C. C. and P. C. his wife, and that they are all infants under the age of 21 years. And these Defendants C. C. and P. C. his wife, in right of the said P. C. and these other Defendants, severally claim to be entitled, as next of kin of the said intestate G. D. to their distribu-

tive shares in the personal estate of the said intestate, and these Defendants submit to this honorable Court, whether the said Complainant is entitled to have the benefit of the said suit, so instituted by his said brother, the said G. D. in this honorable Court, and of the proceedings had under the same.

Schedule of real Estates not particularly devised.

Say, they have, in the first schedule to this their answer annexed, and which they humbly pray may be taken as part thereof, set forth a full, true, and just rental and particular to the best of their respective knowledge, remembrance, information and belief, of all the real estates, as well freehold as copyhold, whereof or whereunto the said W. B. was seized or entitled at the time of the date of his will, and of his death, which are not particularly devised by his said will, and where every part thereof is situate, and the yearly value of such particular thereof, and in whose tenure or occupation the same and every part thereof now are or is, and from time to time, since the death of the said W. B. have and hath been, and under what yearly or other rents or rent.

Schedule of Rents received.

Say, that they have, in their second schedule to this their answer annexed, and which they humbly pray may be taken as part thereof, set forth, according to the best of their respective knowledge, &c. a full, true, and particular account of all and every sum and sums of money which have been received by these Defendants, or either of them, or any other persons or person, by the order, or for the use of them, or either of them, for, or in respect of the rents and profits of the real estates of the said W. B. and every part thereof which have become due since the death of the said Testator, and when, and by whom, and for whose use, and from whom, and for what rent or rents, and of what part of the said real estates, and when due, all and every such sum and sums of money have been respectively received.

Schedule of Debts to be inserted in Answer.

Says, that he has, in the first schedule to this his answer annexed, set forth, according to the best and utmost of his knowledge, remembrance, information and belief, a full, true, and particular account of all and singular the debts which were owing by the said T. or A. or either of them, as well at the time of making the said will, as at the decease of the said Testator, and interest due thereon, for such of the same debts carrying interest, calculated to, &c. &c.

Schedule

Schedule of Personal Estate.

And these last-named Defendants further severally answering, say, they have, in the first schedule to this, their answer annexed or underwritten, and which they pray may be taken as part thereof, set forth, according to the best and utmost of their several and respective knowledge, information and belief, an account of the personal estate and effects of the said Testator, at the time of his death, and also of the rents and profits of his real estate accrued since, distinguishing what part of the same hath come to the hands of these Defendants respectively, or of any other person or persons, to their, or either of their use, and for what sum of money the same and every part of such personal estate was sold.

SECT. II.—DEMURRER.

WHENEVER any ground of defence is apparent on the bill itself, either from matter contained in it, or from defect in its frame, or in the case made by it, the proper mode of defence is by demurrer. (*Mit.* 99.)

A demurrer is the allegation of the Defendant, which, admitting the matters of fact, or some of them, alledged by the Plaintiff in his bill to be true, shews that as they are set forth by the Plaintiff himself, they are insufficient for him to proceed upon, or to oblige the Defendant to make answer unto, or that for some reason apparent on the face of the bill, or because of the omission of some matter which ought to be contained therein, or for want of some circumstances which ought to be attendant thereon, the Defendant ought not to be compelled to answer. (*Mit.* 99.) And therefore it demands the judgment of the court, whether the Defendant shall be compelled to make answer to the Plaintiff's bill, or to some certain part thereof.

The principal grounds of objection to the *relief* sought by an original bill which can appear on the bill itself, and may therefore be taken advantage of by *demurrer* are, first, that the subject of the suit is not within the jurisdiction of a court of equity; secondly, that some other court of equity has the proper jurisdiction; thirdly, that the Plaintiff is not entitled to sue by reason of some personal disability; fourthly, that he has no interest in the subject, or no title to institute a suit concerning it: fifthly, that he has no right to call on the Defendant concerning the

the subject of the suit; sixthly, that the Defendant has not that interest in the subject which can make him liable to the claims of the Plaintiff; seventhly, that for some reason, founded on the substance of the case, the Plaintiff is not entitled to the relief he prays; eighthly, the deficiency of the bill to answer the purpose of complete justice; and, ninthly, the impropriety of confounding distinct subjects in the same suit, or of unnecessarily multiplying suits. (*Harrison's Chan.* 210.)

The objections to a bill which are causes of demurrer to *discovery only* are, first,* that the case made by the bill is not such in which a court of equity assumes a jurisdiction to compel a discovery; secondly, that the Plaintiff has no interest in the subject, or no interest which entitles him to call on the Defendant for a discovery; thirdly, that the Defendant has no interest in the subject to entitle the Plaintiff to institute a suit against him even for the purpose of discovery; fourthly, that there is not that privity of title between them which gives the Plaintiff a right to the discovery required by his bill; fifthly, that the discovery, if obtained, cannot be material; sixthly, that the situation of the Defendant renders it improper for a court of equity to compel a discovery. (*Mit.* 149.)

As a demurrer relies merely upon matter apparent on the face of the bill, so much of the bill as the demurrer extends to is taken for true; thus, if a demurrer is to the whole bill, (that is, every thing necessary to support the Plaintiff's case which is well charged in the bill. (*1 Ves.* 426, 427.)) The whole is taken for true; if it is to any particular discovery, the matter sought to be discovered, and to which the demurrer extends, is taken to be as stated in the bill, and if the Defendant demurs to relief only, the whole case, made by the bill to ground the relief prayed,

is considered as true. A demurrer is therefore always preceded by a protestation against the truth of the matters contained in the bill; a practice borrowed from the common law, and probably intended to avoid conclusion in another suit. (*Mit.* 173.)

A demurrer must express the several causes of demurrer. (*Harrison's Chan.* 211.) And in case the demurrer does not go to the whole bill, it must clearly express the particular parts of the bill demurred to. (*2 Ves.* 451. *Mit.* 173.)

A Defendant may demur as to 'part, plead as to other part, answer to the residue.

An argumentative demurrer is bad. (*2 Ves. jun.* 83.) Where there is an argument in the body of the demurrer, such as, "in or about the year 1770, *which is upwards of twenty years before the bill filed.*" It is a speaking demurrer, and bad." (*Harrison's Chan.* 212.)

The ground of demurrer must be a short point, upon which it is clear the bill would be dismissed, with costs, at the hearing. (*3 Ves.* 253.)

A Defendant cannot demur and plead, or demur and answer to the same part of the bill; for the plea or answer over-rules the demurrer. (*3 P. W.* 80. *2 Atk.* 282.)

A Defendant may demur to any part of the bill, so as the demurrer be filed before the rule to answer be out, and before he has obtained an order for time to answer; but after such order obtained to put in his answer only, he cannot demur, unless he obtains an order for that purpose.

Where

Where a demurrer leaves any part of a bill untouched, the whole may be amended, notwithstanding the allowance of the demurrer. But after the demurrer to the whole of a bill has been argued and allowed, the bill is out of court, and therefore cannot be regularly amended. To avoid this consequence, the court has sometimes, instead of deciding upon the demurrer, given the Plaintiff liberty to amend his bill, paying the costs incurred by the Defendant; and this has been frequently done in the case of a demurrer for want of parties. (2 *Cha. Ca.* 197. *Mit.* 174.)

After a demurrer to the whole bill over-ruled, the Defendant may put in a demurrer less extended; but not without leave of the court. (*Harrison's Chan.* 217.)

A general Demurrer for want of Equity.

The demurrer of D. D., and J. D., and S. K., three of the Defendants, to the bill of complaint of S. S. Complainant.

These Defendants, by protestation, not confessing all or any of the matters and things in the said Complainant's bill contained, to be true in such manner and form as the same are therein set forth and alleged, do demur to the said bill, and for cause of demurrer shew, that the said Complainant has not by his said bill made such a case as entitles him, in a court of equity, to any discovery from these Defendants respectively, or any of them, or any relief against them, as to the matters contained in the said bill, or any of such matters, and that any discovery which can be made by these Defendants, or any of them, touching the matters complained of in the said bill, or any of them, cannot be of any avail to the said Complainant for any of the purposes for which a discovery is sought against these Defendants by the said bill, nor entitle the said Complainant to any relief in this Court, touching any of the matters therein complained of. Wherefore, and for divers other good causes of demurrer appearing in the said bill, these Defendants do demur thereto, and they pray the judgment of this honorable Court, whether they shall be compelled to make any further and other answer to the said bill, and they humbly pray to be dismissed from hence with their reasonable costs in this behalf sustained.

Demurrer for want of Parties.

These Defendants, by protestation, &c. do demur to the said bill, and for cause of demurrer shew, that it appears by the said Complainant's own shewing in the said bill, that J. S. therein named, is a necessary party to the said bill, as much as it is therein stated, that the said Testator did, in his life-time, by certain conveyances made to the said J. S. in consideration of £ , convey to him, by way of mortgage, certain estates in the said bill mentioned, for the purpose of paying the said Testator's said debts and legacies; but yet the said Complainant hath not made the said J. S. a party to the said bill. Wherefore as before, &c.

Demurrer, because the Discovery sought may subject the Defendant to Penalties which the Plaintiff has not waived.

This Defendant, &c. as to such part and so much of the said bill as seeks to have discovery from this Defendant of any timber, or young timber trees, in the said bill suggested to have been, since the death of sir J. T. bart. the Defendant's late father, deceased, in the said bill mentioned, felled or cut down on the estate in the said bill mentioned, or any
part

part thereof, by this Defendant, or by his directions, or seeks to have any discovery of all or any sum or sums of money for which the same or any part thereof were or was sold by this Defendant, doth demur, and for cause of demurrer sheweth, that by the known and settled rules of this honorable Court, no person ought to be compelled to set forth or discover any matter or thing which doth or may subject him to any pains, penalties, or forfeitures whatsoever; and therefore as the said discovery sought by the said Plaintiff's said bill, doth and may, by the known law of this kingdom, subject and make this Defendant liable to several pains, penalties, and forfeitures, and which the said Complainant hath not in and by his said bill waived, as is usual in cases of the like nature to do, this Defendant doth demur in law to so much and such parts of the said bill, as pray the aforesaid discovery, and humbly demands the judgment of this honorable Court, whether he ought to be compelled to make any further or other answer than as aforesaid, to such parts of the said bill as he hath so demurred unto.

The several Demurrer and Answer of B. C., Wife of T. C. a Lunatic, one of the Defendants, to the Bill of Complaint of S. E. Complainant.

This Defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the Complainant's said bill mentioned to be true, in such manner and form as the same are therein set forth, as to the said bill or so much thereof as seeks to have the witnesses to the will of the said T. C. this Defendant's said husband, examined, and their testimony recorded in this honorable Court, in order to the perpetuating thereof, this Defendant doth demur, and for cause of demurrer sheweth, that the said T. C. at the time of the exhibiting of the said bill was, and still is living, and that the witnesses of the said will of the said T. C. ought not to be examined to prove the said will, nor ought their testimony to be recorded during the life of the said T. C., and for that the said Complainant hath not any right or title, by or under the said will, until the said T. C.'s death. Wherefore, and for divers other errors and imperfections, good causes of demurrer appearing in the said bill, this Defendant doth demur to such parts of the said bill as aforesaid, and as to the residue of the said bill, this Defendant not waiving her said demurrer, but relying thereon, and saving and reserving to herself all and all manner of benefit and advantage of exception, that can or may be had or taken to the many errors, uncertainties, and insufficiencies in such residue contained, doth answer and say, she hath heard and believes it to be true, that the said T. C. did several years ago, but when exactly this Defendant cannot set forth, become disordered in his mind, and hath ever since been, and still is, incapable of managing himself or his affairs; and that the said Complainant did, on or about the day of , prefer a petition to the then Lord High Chancellor of Great Britain, that a commission might issue to inquire of the lunacy of the said T. C., and that a commission issued accordingly, and such inquisition was taken therein as in the said bill is for that purpose mentioned and set forth, and
that

that the said T. C. doth still continue, and is a lunatic; but this Defendant, for greater certainty, craves leave to refer to the records of the said commission and inquisition; and this Defendant further saith, she admits it to be true, that after the said T. C. was found a lunatic as aforesaid, the care and custody of his person was committed to this Defendant, and the care and management of his estate was committed to W. C. esq. in the said bill named, and that the said T. C. her husband is still living, and this Defendant doth deny all manner of combination and confederacy in the said bill charged, and humbly prays to be hence dismissed, with her reasonable costs and charges, in this behalf sustained.

Demurrer to a Bill of Interpleader, for want of the usual Affidavit, that Plaintiff does not collude with any of the Defendants.

This Defendant, by protestation, not confessing or acknowledging all and every of the matters or things in the said Complainant's said bill alledged or contained, to be true, in such manner and form as the same are therein or thereby set forth or alledged, to the whole of the said bill doth demur, and for cause of demurrer sheweth, that although the said Complainant's said bill is on the face thereof, a bill of interpleader, and prays that this Defendant, and the other Defendants thereto, may interplead together concerning the matters therein mentioned, and may be restrained by injunction, from proceeding at law against the Complainant concerning such matters with any of the Defendants thereto, which affidavit ought, according to the rules of this honorable Court, as this Defendant is advised, to have been made, and annexed to the said bill. Wherefore, &c.

Demurrer to a Bill relating to distinct Matters.

This Defendant, by protestation, not confessing any of the matters and things contained in the said bill, to be true, as therein alledged, saith, that he is advised by his counsel, that the Complainant's said bill is insufficient, and to which, by the rules of this honorable Court, this Defendant ought not to be compelled to make or give any answer, and for cause of demurrer thereunto, this Defendant sheweth, that it appears by the said bill, that the same is exhibited against this Defendant and J. S. for several distinct matters and causes, in many whereof, as appears by the said bill, this Defendant is not, in any manner, interested or concerned, by reason of which distinct matters the said Complainant's said bill is drawn out to a considerable length, and this Defendant is compelled to take a copy of the whole thereof, and by joining this Defendant, and distinct matters together, which do not depend on each other in the said bill, the pleadings, orders, and proceedings will, in the progress of the said suit, be intricate and prolix, and this Defendant put to the unreasonable and unnecessary charges in taking copies of the same, although several parts thereof no ways relate to or concern him; for which reason, and for divers other errors appearing in the said bill, this Defendant doth demur thereto,

thereto, and he prays judgment of this honorable Court, whether he shall be compelled to make any further or other answer to the said bill, and he humbly prays to be dismissed from hence with his reasonable costs, on this behalf sustained.

Note.—As the Defendants may combine together to defraud the Plaintiff of his rights, and such a combination is usually charged by a bill, it has been held, that the demurrer must so far answer the bill as to deny combination. *Mit.* 147.

Conclusion of an Answer, insisting that the Plaintiff is not entitled to Relief in Equity, and claiming the Benefit of that Defence, as if the Bill had been demurred to.

And this Defendant submits to this honorable Court, that all and every the matters in the said Complainant's bill mentioned and complained of, are matters which may be tried and determined at law, and with respect to which the said Complainant is not entitled to any relief from a Court of Equity, and this Defendant hopes he shall have the same benefit of this defence as if he had demurred to the said Complainant's bill; and this Defendant denies, &c.

A Demurrer, where the Defendants are charged with Felony, or compounding Felony.

The demurrer of the Defendants, C. D. G. H. and E. his wife, to part, and their answer to other part of the bill of complaint of A. B. Complainant.

As to so much of the Complainant's bill as seeks to charge these Defendants, or any of them, with the concealing or compounding the felony in the bill mentioned, or as seeketh to compel any of these Defendants to make any discovery touching the same, or any of the matters relating thereto, in the bill suggested or alledged, these Defendants, by protestation, not confessing or acknowledging any of the matters or things relating thereto, in the said bill comprized to be true, in such sort, manner, and form, as therein the same are alledged or set forth, these Defendants do demur, and for cause of demurrer shew, that they ought not to be compelled to discover or set forth any matters whereby they may impeach or accuse themselves of an offence or crime for which they may suffer corporal punishment, or be grievously fined; therefore, and for divers other good causes of demurrer in the Complainant's said bill of his own shewing, appearing these Defendants, as to so much of the Complainant's said bill as before is set forth, do demur, and do demand the judgment of this honorable Court, whether they, or any of them, ought, or shall be compelled, to make any answer thereto, other, or otherwise than as aforesaid, and humbly pray to be hence dismissed with their costs; and these Defendants, by way of answer, do deny, &c.

A Demurrer, for want of Parties, and for want of an Affidavit, to a Bill brought for a Discovery of a Deed.

The demurrer of A. B. and J. his wife, Defendants, to the bill of complaint of C. D. Complainant.

The said Defendants, by protestation, not confessing or acknowledging all or any the matters and things in the Complainant's bill of complaint alledged and set forth to be true, in such manner and form as the same is, and are thereby set forth, say, that they are advised that the substance of the said bill is to discover a deed suggested to be made by in the said bill named, whereby per annum, or some such provision was made for the benefit and advantage of his younger sons, and payable out of his lands, and that the Plaintiff is the survivor, and entitled to the said provision; and that the said lands, upon the death of the said descended or came to his eldest son and heir, deceased, of whom the Plaintiff, as is suggested, demanded the benefit of the said deed; but before any benefit obtained, he the said died, leaving two daughters his heirs; and that the Plaintiff, after the death of the said, made his application to this Defendant, the relict of the said, and sent the deed to her, and that the said deed is now in the hands of the said Defendants, who, by combination with the said daughters and heirs, do refuse to pay the Plaintiff the said provision made by his father, and the arrears thereof, or permit him to enjoy the lands out of which the same is issuing, and therefore prays a discovery of the said deed, and to have the arrears of the said provision, and farther relief; to which bill these Defendants, as advised, do demur, and for cause of demurrer say, that the Plaintiff ought, according to the rules of this Court, to have made affidavit that he had not, in his custody or power, the deed of which he seeks a discovery, and for want whereof he prays relief in this Court; and also, for that, the said Complainant seeks relief for arrears of a provision of per annum, or some other provision made by the supposed deed, and to have relief in this Court, to make good the same for the future, and yet hath not made the executors or administrators, nor the heirs of the said parties to his bill, who are (as these Defendants are advised), the proper persons entitled and interested to contest the said arrears or future payment thereof, and the relief prayed in and by the Complainant's said bill: and although he hath taken notice in his bill of the said daughters and heirs, yet hath not made them Defendants, nor prayed any process against them: Wherefore, and for many other errors and defects in the said bill, the said Defendants do demur in law, and do humbly pray the judgment of this honorable Court, whether they shall be compelled to make any other or farther answer thereto, and do also humbly pray to be hence dismissed, &c.

A Demurrer for that the Plaintiffs have not entitled themselves to prosecute.

The said Defendants, by protestation, not confessing or acknowledging all or any of the matters or things in the Complainants' bill of complaint

plaint contained, to be true, in such manner, sort, and form, as the same are therein and thereby set forth and alledged, do demur thereunto, and for cause of demurrer shew, that the scope and end of the Complainants' bill is to be relieved touching several sums of money by the said bill supposed to be due from these Defendants to one _____ deceased, in the said bill named, which the Complainants would, or seek by their said bill to claim, as executors to the said _____, and yet have not alledged in or by their said bill, that they have proved the will of the said _____ (if any such was made), or otherwise taken upon them the burden or execution thereof, or any ways entitled themselves unto her personal estate, and to sue for the same: Wherefore, and forasmuch as the said Complainants have not well and sufficiently entitled themselves, in and by their said bill, to the said money (if any had been due from these Defendants, or either of them, to the said _____), as is thereby supposed; and for that, should these Defendants pay the money demanded by the said bill to the Complainants, before they have either proved the will, or sued out administration, they cannot sufficiently, as these Defendants are advised, and insist, discharge these Defendants, nor give these Defendants any proper receipt or receipts for the same, but that they shall or may be liable to be questioned again by such person as may sue out administration to the said _____, with the said will annexed, or otherwise; and for which and divers other causes, these Defendants do demur in law unto the Complainants' said bill of complaint, and all the matters and things therein contained; and humbly demand the judgment of this honorable Court, whether they, or either of them, shall be compelled to make any other or farther answer thereunto; and pray to be hence dismissed, with their costs, &c.

A Demurrer, Plea and Answer, to a Bill seeking Relief against a Will, whereby a personal Estate is devised, being proved in the Ecclesiastical Court, and the Will pleaded in Bar, and for want of Equity.

The joint and several demurrer of S. N. and E. his wife, to part, and the plea of the said S. N. to part; and the joint and several answers of the said S. N. and E. his wife to other part of the bill of complaint of M. B. W. T. and J. M. and S. his wife, Complainants.

These Defendants, S. N., and E. his wife, by protestation, not confessing or acknowledging all or any of the matters and things in the said bill of complaint to be true, in such sort and manner as the same are therein expressed and contained, as to so much of the said bill as seeks to set aside or impeach, or have any relief against the will of R. R. in the bill named, as to the personal estate of the said R. R. or that seeks a discovery from these Defendants, or either of them, in relation to the said will, or that prays an injunction against this Defendant, A. N. to stop his proceeding at law against the said W. T. these Defendants do demur thereunto, and for cause of demurrer shew, that it appears, by the Complainant's own shewing, that this Defendant, S. N. hath proved the
said

said will of the said R. R. in the Prerogative Court of the archbishop of C.; and these Defendants are advised, that the probate of wills relating to estates, and particularly relating to personal estates, do properly belong to the Ecclesiastical Courts of this realm, and that the same ought not to be called into question in this honorable Court; and for further cause of demurrer these Defendants shew, that there is not, as they are advised, any matter or thing set forth in and by the said bill, as a foundation of equity for this Court to interpose, in relation to the action at law commenced by this Defendant, S. N. against the said W. T. but what is properly cognizable at law, and that the said Complainant may have the same or equal benefit, upon a trial at law, if the same is true; for which reason, and for divers other causes, these Defendants do demur to so much of the said bill as aforesaid, and humbly pray the judgment of this honorable Court, whether they shall make any further or other answer thereto; and as to so much of the said bill as seeks to have a distribution of the personal estate or effects of the said R. R. according to the statute of distribution of intestates' estates, or that seeks an account or discovery of or from this Defendant, S. N. of the personal estate of the said R. R. this Defendant, S. N. doth plead thereunto, and for plea this Defendant saith, that the said R. R. did, in his life-time, on or about the day of _____, in the year of our lord _____, as this Defendant believes, duly make and publish his last will and testament in writing, and thereby, after giving several legacies therein particularly mentioned, gave and bequeathed all the rest and residue of his real and personal estate unto this Defendant, to hold to him, his heirs and assigns, for ever, and of the said will made this Defendant sole executor; and this Defendant also, after the death of the said Testator, proved the said will in the Prerogative Court of the archbishop of C. as by the probate thereof, under the seal of the said Court, now in the custody or power of this Defendant, ready to be produced, as this honorable Court shall direct, and to which this Defendant craves leave to refer, doth more fully and at large appear. All matters and things this Defendant doth aver, and is ready to prove, as this honorable Court shall direct, and doth plead the same in bar to so much of the said bill as for that purpose is herein-before mentioned, and humbly craves the judgment of this honorable Court, whether he shall make any further, or other answer thereto; and as to so much of the said bill as these Defendants have not before respectively demurred or pleaded unto, these Defendants in no sort waiving the benefit of their said demurrer and plea, or either of them, but wholly relying and insisting thereon, these Defendants for answer to the residue of the Complainant's said bill, or to so much thereof as these Defendants are advised is material or necessary for them, or either of them, to make answer unto, these Defendants, each speaking for him and herself, and not the one for the other, they, these Defendants, do severally answer and say as follows, &c.

SECT. III.—PLEAS.

WHEN an objection to a bill is not apparent on the bill itself, if the Defendant means to take advantage of it, he ought to shew to the court the matter which creates the objection, either by answer or by plea. (*Mit.* 177.)

Pleas to original bills may be considered under the two heads, of pleas to relief, and pleas to discovery only; and first, with respect to the former.

Pleas have generally been considered as of three sorts; to the jurisdiction of the court; the persons of the Plaintiff or Defendant; and in bar of the suit. (*Mit.* 176.)

Though the subject of a suit may be within the jurisdiction of a court of equity, yet if the court of Chancery is not the proper jurisdiction, the Defendant may plead the matter which deprives the court of jurisdiction, and shew to what court the jurisdiction belongs (1 *Ves.* 203.); and upon this ground may demand the judgment of the court, whether he shall be compelled to answer the bill. (*Chan. Pract.* 417. 420.) Pleas of this nature arise principally where the suit is for land within a county-palatine. (2 *Com. Dig. Chan.* 56. *Chan. Pract.* 420. 1 *Cha. Ca.* 41. *Nels. Rep.* 37. 66. *Cary's Rep.* 60.); or where the Defendant claims the privileges of an university (*Cary's Rep.* 65, 66. 73. 2 *Vent.* 362.), or other particular jurisdiction. (*Mit.* 182, 183.)

The court of Chancery being a superior court of general jurisdiction, nothing shall be intended to be out of its jurisdiction,

diction, which is not shewn to be so. (1 *Ves.* 204.) It is requisite, therefore, in a plea to the jurisdiction of the court to allege, that the court has not jurisdiction of the subject, and to shew by what means it is deprived of jurisdiction. It is likewise necessary to shew what court has jurisdiction. (1 *Vern.* 59. 1 *Ves.* 203, 204.) If the plea does not properly set forth these particulars, (*see Nels. Rep.* 51) it is bad in point of form. (1 *Ves.* 204. 2 *Vent.* 362. *Mit.* 183.)

If a bill be brought for an account of the profits of mines, and the Defendant pleads a special act of parliament which gives an exclusive jurisdiction of all matters arising within the mines of the courts of A., but does not aver there is a court of equity there, the plea will be over-ruled. (1 *Vern.* 58.)

A person outlawed is disabled from suing in a court of justice, and if a bill is filed in his name, the Defendant may plead the outlawry, the record of the outlawry, or the *capias* thereupon must be pleaded *sub pede sigilli*, and is usually annexed to the plea. (*Toth.* 54. *Pract. Reg.* 276.) A plea of outlawry in a suit for the same duty or thing for which relief is sought by the bill, is insufficient according to the rule of law, and shall be disallowed of course, as put in for delay. Otherwise a plea of outlawry is always a good plea, so long as the outlawry remains in force (*Ord. Cha.* 97.) ; but if that is reversed, the Plaintiff, upon payment of costs, may sue out fresh process against the Defendant, and compel him to answer the bill. (*Ord. Cha.* 97.) Outlawry in a Plaintiff, executor or administrator, cannot be pleaded, for he sues in *auter droit*. (1 *Vern.* 184. *Wy. Pract. Reg.* 327.) It is equally insufficient, if alledged in disability of a person named in a bill as the next friend of an infant Plaintiff, (*Wy. Pract. Reg.* 327.) or in an information as a relator. (*Mit.* 186, *sed vide Pre. Cha.* 18.)

The

The Defendant may plead that the Plaintiff is excommunicated, which must be certified by the ordinary, either by letters patent containing a positive affirmation that the Plaintiff stands excommunicated, and for what, or by letters testimonial, reciting "*quod scrutatis registeriis invenitur, &c.*;" either of these certificates must be *sub sigillo*, and so pleaded. (*Wy. Pract. Reg.* 327.) Excommunication is a good plea to an executor or administrator, though they sue in *auter droit*, (*Co. Litt.* 131. 4 *Bac. Abr.* 36. *Wy. Pract. Reg.* 327.) but not to the next friend of an infant. (*Wy. Pract. Reg.* 327.) The Plaintiff purchasing letters of absolution, may sue out fresh process, and compel the Defendant to answer the bill. (*Mit.* 187.)

There is little to be found in the books upon the subject of a plea that the Plaintiff is an alien. (2 *Atk.* 399. 2 *Vin. Abr.* 274. *Wy. Pract. Reg.* 327. *Rastal's Entries*, 252.) An alien who is not an alien enemy, is under no disability of suing for any personal demand; (1 *Atk.* 51. *vide Mit.* 188.) but an alien enemy is not capable of suing.—(*Anton v. Fisher*, *Dougl.* 626. *in note.*)

A plea that the Plaintiff is not the person he pretends to be, or does not sustain the character he assumes, and therefore is not entitled to sue as such, though a negative plea, is good in abatement of the suit. (*Wy. Pract. Reg.* 326.) As where a Plaintiff entitled himself as administrator, and the Defendant pleaded that he was not administrator, (1 *Vern.* 472.) and where a Plaintiff entitled himself as administrator of an intestate, and the Defendant pleaded that the supposed intestate was living, and the plea was allowed. (*Mit.* 189.)

But Lord Thurlow held, that the plea that the Plaintiff is not the heir, was a bad plea. (2 *Bro. C. C.* 143.)

A plea that the Defendant is not the person he is alledged to be, or does not sustain the character he is alledged to bear, is mentioned as a plea which may be supported. (*Mit.* 129.) It seems to have been considered as more convenient for a Defendant under these circumstances, to put in an answer, alledging the mistake in the bill, and praying the judgment of the court, whether he should be compelled further to answer the bill. (*Cary's Rep.* 61. *Wy. Pract. Reg.* 327. *Mit.* 192.)

Pleas in bar are, first, that the subject of the suit is not within the jurisdiction of a court of equity; secondly, that the Plaintiff has no interest in the subject, or no right to institute a suit concerning it; thirdly, that he has no right to call on the Defendant concerning it; fourthly, that the Defendant has not that interest in the subject, which can make him liable to the demands of the Plaintiff; fifthly, that for some reason, founded on the substance of the case, the Plaintiff is not entitled to the relief he prays; sixthly, the deficiency of the bill, to answer the purposes of complete justice, may also be shewn by plea, which may be considered as in bar of the suit, though perhaps a temporary bar only; seventhly, the impropriety of unnecessarily multiplying the suits, may be the subject of plea which is also in bar of the suit. (*Mit.* 178 and 179.)

It should seem, that a plea of the matter necessary to shew that the court has not jurisdiction of the subject, though perhaps unavoidably a negative plea would hold: thus, if the jurisdiction was attempted to be founded on the loss of an instrument, where, if the defect arising from this supposed accident had not happened, the courts of ordinary jurisdiction could completely decide upon the subject, perhaps a plea, shewing the existence of the instrument, and that it was in the power of the Plaintiff to obtain a
production

production of it, ought to be allowed, although instances of this sort of plea may not occur. (*Mit.* 181.)

An instance of the second sort of pleas in bar is, where a Plaintiff claims as a purchaser of a real estate, and the Defendant pleads that he was a Papist, and incapable of taking by purchase (See, however, 18 Geo. 3. c. 60, by which this incapacity is removed, under certain circumstances); or if a Plaintiff claims property under a title accrued previous to conviction of himself, or of a person, under whom he claims, of some offence which occasioned a forfeiture (2 *Atk.* 399), or previous to a bankruptcy; or any other defect in the title (*Gillb.* 288) of the Plaintiff to the matter contained in the bill. A plea of conviction of any offence which occasions forfeiture, as manslaughter, must be pleaded with equal strictness as a plea of the same nature at common law (2 *Atk.* 399). But if a plea goes to shew that no title was ever vested in the Plaintiff, though for that purpose it states an offence committed, conviction of the offence is not essential to the plea, and the same strictness is not required, as in case of forfeiture. (*Mit.* 190.)

Pleas in bar of matters recorded, or as of record in the court itself, or some other court of equity, may be, first, a decree or order of the court, by which the rights of the parties are already determined (3 *Atk.* 626), or another bill for the same cause dismissed (1 *Vern.* 310). Secondly, another suit depending in the court, or in any other court of equity between the same parties, for the same cause. (3 *Atk.* 587, 590. *Mit.* 194.)

A decree, determining the rights of the parties, and signed and inrolled, may be pleaded to a new bill for the same matter (3 *Atk.* 626.) Upon a plea of this nature, so much of the former bill and answer must be set forth, as it is necessary

cessary to shew that the same point was then in issue (2 *Atk.* 608. 2 *Ves.* 377.) A decree or order, dismissing a former bill for the same matter, may be pleaded in bar to a new bill. (1 *Vern.* 310. *Bro. P.C.* 281), if the dismissal was upon hearing, and was not in terms directed to be without prejudice. (1 *Cha. Ca.* 155.) But an order of dismissal is a bar only, where the court determines that the Plaintiff had no title to the relief sought by his bill; and therefore an order, dismissing a bill for want of prosecution, is not a bar to another bill. (1 *Atk.* 579. *Mit.* 196.)

A decree must be signed and inrolled, or it cannot be pleaded in bar of a suit (3 *Atk.* 809.) ; though it may be insisted on by way of answer. (2 *Ves.* 577. *Mit.* 196.)

Another suit, depending in the same or another court of equity for the same cause (*Ord. in Cha.* 98. 1 *Cha. Ca.* 241. 3 *Atk.* 587, 590.) is a good plea. It must aver, that the second suit is for the same matter as the first, and therefore a plea, which did not expressly aver this, though it stated the matter tending to shew it, was considered as bad. (*Mit.* 198.) The plea was also to aver, that there have been proceedings in the suit, as appearance, or process requiring appearance, at the least. (1 *Eq. Ca. Abr.* 39.) It has been held that a positive averment, that the former suit is depending is not necessary. (1 *Vern.* 352, *sed vide Hard.* 160.) And if the Plaintiff sets down the plea to be argued, he admits the truth of the plea, that a former suit for the same matter is depending, the plea therefore must be allowed (1 *Vern.* 332.) unless it is defective in point of form. (*Mit.* 198.) A plea of this kind is not put in on oath. (1 *Vern.* 332.)

Pleas in bar, of matters of record, or of matters in the nature of matters of record, in some court, not being a court of equity, may be, first, a fine; secondly, a recovery; thirdly,

thirdly, a judgment at law, or sentence of some other court. (*Mit.* 201.)

When a fine and non-claim are not set up as a bar to a claim of trust, by a person claiming under the same title, it is not sufficient to aver, that at the time the fine was levied, the seller of the estate being seized, or pretending to be seized, conveyed; but it is necessary to aver that the seller was actually seized. (*Mit.* 203. 2 *Ves.* jun. 450.) It is not, indeed, requisite to aver, that the seller was seized in fee; an averment that he was seized *ut de libero tenemento*, and being so seized, a fine was levied, will be sufficient. (2 *Atk.* 630. *Mit.* 203.)

Pleas in bar of matters *in pais* only, are principally, first, a stated account; secondly, an award; thirdly, a release; fourthly, a will or conveyance; fifthly, a plea of any statute which may be a bar to the Plaintiff's demand. (*Mit.* 207.)

A plea of a stated account must shew that the account was in writing; or at least it must set forth the balance. (2 *Atk.* 309.) If the bill charges that the Plaintiff has no counterpart of the account, the account must be annexed by way of schedule to the answer, that if there be any errors upon the face of it, the Plaintiff may have an opportunity of pointing them out. (3 *Atk.* 303.)

If fraud or error are charged, they must be denied by plea, as well as by answer (*Gilb. on Cha.* 57. *Mit.* 208); and if neither error nor fraud is charged, the Defendant must, by the plea, aver that the stated account is just and true, to the best of his knowledge and belief. (3 *Atk.* 70) The delivery up of vouchers at the time the account was stated, seems to be a proper averment in a plea of this nature, if the fact was such. (*Gilb. on Cha.* 57. *Mit.* 208.)

An award may be pleaded to a bill to set aside the award, and open the accounts. (2 *Atk.* 305, 501.) But if fraud or partiality are charged against the arbitrators, those charges must not only be derived by way of averment in the plea, but the plea must be supported by an answer, shewing the arbitrators to have been incorrupt and impartial. (3 *Atk.* 396, 501. *Mit.* 209.)

But in a case (1 *Anst.* 59. 3 *Anst.* 735, *et vide* 6 *Ves.* 594, 595, 596) in the Exchequer, where the bill charged an award to have been obtained corruptly, and the plea pleaded the award, denying corruption, and all the particular instances specially by averment, and also put in an answer to the same points as the special averments in the plea. Held that the answer over-ruled the plea.

In a plea of a release, the Defendant must set out the consideration upon which the release was made. If a release was pleaded to a bill for an account, it must be under seal, otherwise it must be pleaded as a stated account. (*Gillb. on Cha.* 57. *Mit.* 211.)

To a bill brought upon a ground of equity, by an heir against a devisee, to turn the devisee out of possession, or against a person claiming under a conveyance from the ancestor, the Defendant may plead the will, and that it was duly executed, or the conveyance, in bar of the suit. (*Mit.* 201.)

To a bill for discovery and execution of a trust, the statute for prevention of frauds and perjuries, with an averment that there was no declaration of trust in writing, has been pleaded. (2 *Atk.* 156.) To a bill for a specific performance of an agreement, the same statute, with an averment

ment that there was no agreement in writing, signed by the parties, has also been pleaded (*Rose Cha.* 402, 533. 1 *P. W.* 770.) In these cases, if any matter is charged by the bill, which may avoid the bar created by the statute, that matter must be denied generally, by way of averment, in the plea; and it must be denied particularly and precisely, by way of an answer to support the plea. (*Mit.* 212.)

The statute for limitation of actions, 21 *Jac.* 1. c. 16, is likewise a good plea. (3 *P. W.* 309. 2 *Atk.* 395. *Gilb. on Cha.* 61. 3 *Bro. P. C.* 305.) But if a bill charges a fraud, and that the fraud was not discovered till within six years before filing the bill, the statute is not a good plea, unless the Defendant denies the fraud, or avers that the fraud, if any, was not discovered within six years before the filing the bill. (3 *P. W.* 143.)

A plea of the statute of limitations not being sufficiently supported by the answer, as negating the facts stated in the bill, to take the case out of the statute, was ordered to stand for an answer, with liberty to except. (6 *Ves.* 586.)

Where the demand is of any thing executory, as a note for payment of an annuity, or by instalments, the Defendant must aver that the cause of action, (2 *Stra.* 129,) has not accrued within six years; because the statute bars only as to what was actually due six years before the action brought. (3 *Atk.* 7. *Mit.* 213.)

Where the Defendant claims under a purchase or mortgage for a valuable consideration without notice of the Plaintiff's title, he may plead it in bar of the suit. (2 *Atk.* 397, 630. 2 *Vent.* 361.) Such a plea must aver, that the person
who

who conveyed or mortgaged to the Defendant, was seized in fee, or pretended to be seized, (3 *P.W.* 281.) and was in possession, (1 *Vern.* 246.) if the conveyance purported an immediate transfer of possession at the time when he executed the purchase or mortgage deed. (3 *P.W.* 281. *Mit.* 215.)

In a plea of title derived from one having a particular estate, and not in possession, it must be set out, how the person became entitled. (*Amb.* 421.)

The plea must likewise aver a conveyance, and not articles merely. (3 *P.W.* 281.) It must aver the consideration and actual payment of it; a consideration secured to be paid is not sufficient. (3 *Atk.* 304, 814.) The plea must also deny notice of the Plaintiff's title to a claim, (1 *Vern.* 179,) previous to the execution of the deeds, and payment of the consideration (1 *Chu. Ca.* 34. 2 *Atk.* 631. 3 *Atk.* 304); and the notice so denied, must be notice of the existence of Plaintiff's title, and not merely notice of the existence of a person who could claim under that title. (1 *Atk.* 522.)

In pleading, there must be in general the same strictness in equity as at law (2 *Atk.* 632); at least in matter of substance (*Mit.* 232). A plea in bar must follow the bill, and not evade it, or mistake the subject of it. (*Bunb.* 70. 2 *Atk.* 603). If a plea goes not to the whole bill, it must express to what part of the bill the Defendant pleads; and therefore a plea to such parts of the bill as are not answered, must be over-ruled as too general. (3 *Atk.* 70. *Mos.* 40). So, if the parts of the bill to which the plea extends are not clearly and precisely expressed; as if the plea is general, with an exception of matters after-mentioned

tioned, and is accompanied by an answer, the plea is bad. (2 *Ves.* 108. *Mit.* 233.)

A plea must aver facts to which the Plaintiff may reply, and not in the nature of a demurrer, rest on facts in the bill. (3 *Atk.* 558). The averments ought in general to be positive. In some cases, indeed, a Defendant has been permitted to aver according to the best of his knowledge and belief; as that an account is just and true, (3 *Atk.* 70. *Toth.* 70): and in all cases of negative averments, and of averments of facts not within the immediate knowledge of the Defendant, it may seem improper to require a positive assertion. (*Mit.* 236.)

All facts necessary to render the plea a complete equitable bar to the case made by the bill, so far as the plea extends, that the Plaintiff may take issue upon it, (*Gilb. on Cha.* 58) must be clearly and distinctly averred. Averments are likewise necessary to exclude intendments, which would otherwise be made against the pleader; and the averments must be sufficient to support the plea. (2 *Ves.* 245. *Mit.* 236.)

If there is any charge in the bill, which is an equitable circumstance in favour of the Plaintiff's case, against the matter pleaded, as fraud, on notice of title, that charge must be denied by way of answer, as well as by averment in the plea. In this case the answer must be full and clear, or it will not be effectual to support the plea. (3 *Atk.* 304, 815. 3 *P. W.* 145. 3 *Bro. P. C.* 373, 374.) for the court will intend the matters so charged against the pleader, unless they are fully and clearly denied. (2 *Atk.* 241). But if they are in substance fully and clearly denied, it will be sufficient to support the plea, though all the circumstances charged

charged in the bill may not be precisely answered. (3 *Bro. P. C.* 373. *Mit.* 237.)

With respect to such objections to a bill as are grounds of plea to a *discovery only*, they may be, first, that the Plaintiff's case is not such as entitles a court of equity to assume a jurisdiction to compel a discovery in his favour; secondly, that the Plaintiff has no interest in the subject, or no interest which entitles him to call on the Defendant for a discovery; thirdly, that the Defendant has no interest in the subject to entitle the Plaintiff to institute a suit against him, even for the purpose of discovery only; fourthly, that the situation of the Defendant renders it improper for a court of equity to compel a discovery. (*Mit.* 222.)

A Defendant cannot demur and plead to the same part of the bill; for the plea over-rules the demurrer.

Plea to a discovery, that it may subject Defendant to the penalties of a statute; and also of articles of impeachment exhibited against him, is inconsistent, one part of the plea over-ruling the other, and therefore bad. (2 *Ves. jun.* 84.)

A plea is introduced by a protestation against the confession of the truth of any matter contained in the bill. If the plea is accompanied by an answer, merely to support it, the answer is stated to be made for that purpose, not waiving the plea. If the plea is to part of a bill only, and there is an answer to the rest, it is expressed to be an answer to so much of the bill as is not before pleaded to, and is preceded by the same protestation against waiver of the plea. (*Mit.* 239.)

Pleas in bar of matters *in pais*, (*Wy. Pract. Reg.* 325) must be upon the oath of the Defendant; but pleas to the jurisdiction of the court, or in disability of the person of the Plaintiff, (*Ord. in Cha.* 96) or pleas in bar of any matters of record, or of matters recorded, or as of record in the court itself, or any other court, need not be upon oath. (*Wy. Pract. Reg.* 324.)

Plea of the Statute of Frauds, and Answer to some Part of the Bill; with Notes pointing out where it is wrong.

This Defendant, by protestation, to so much of said bill as seeks to compel this Defendant specifically to perform the agreement in the said bill mentioned, to have been made and entered into between the Complainant and this Defendant, for sale by this Defendant, unto the Complainant, of a certain messuage or tenement in the bill mentioned, or as seeks to compel this Defendant to execute a conveyance of such messuage or tenement unto the Plaintiff, pursuant to any such agreement, or as seeks any other relief relating to such messuage or tenement, or as seeks any discovery from this Defendant, of or concerning any agreement made or entered into between the Complainant and this Defendant, for sale by this Defendant unto the said Complainant, of the said messuage or tenement, and not reduced into writing, and signed by this Defendant, or some person by him this Defendant lawfully authorized, this Defendant doth plead in bar, and for plea saith, that by an Act of Parliament, made in the twenty-ninth year of his Majesty King Charles the Second, intituled, "An Act for Prevention of Fraud and Perjuries;" it was, amongst other things, enacted, that, from and after the day of , no action should be brought, whereby to charge any person upon any contract or sale of lands, tenements, or hereditaments, or any interests in or concerning them, unless the agreement upon which such action should be brought, or some memorandum or note thereof should be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized, as by the said act may appear. And this Defendant further for plea saith, that neither he, this Defendant, nor any person by him lawfully authorized, did ever sign any contract or agreement in writing, for making or executing any sale or conveyance to the Complainant of the said messuage or tenement, or any part thereof, or any interest thereof, or to any such effect, or any memorandum or note in writing, of any such agreement; all which entries and things this Defendant doth aver to be true, and is ready to prove, as this honorable Court shall award. And therefore he doth plead the same in bar, to so much and such parts of the said bill as aforesaid, and humbly prays the judgment of this honorable Court, whether he shall be compelled to make any further or other answer to so much and such parts of the said bill as is herein and hereby pleaded unto as aforesaid. And this Defendant, not waiving his said plea, but wholly relying and insisting, and in aid and support thereof, for answer to the residue of the Complainant's bill, not hereinbefore pleaded unto, or so much thereof as he, this Defendant, is advised, is in anywise material or necessary for him to make answer unto, he, answering and saith, that he, this Defendant, was, in the month of , and now is seized, in fee-simple, of the messuage or tenement in the bill mentioned, together with the household goods and stock upon the premises, and that the same then were, and now are, in his possession or occupation, in the manner therein set forth. And this Defendant also admits it to be true, that this Defendant was, in the said month of last, desirous to sell the said messuage or tenement, and the furniture and stock in and about the same, and that the Complainant, being by trade a brewer and maltster, was then desirous of purchasing the same, and that a treaty was, in the said month of

had

had between the Complainant and this Defendant, for the sale thereof, by this Defendant to the Complainant. And this Defendant further answering saith, that while the Complainant and this Defendant were treating or conversing together, as to this Defendant selling to the Complainant the said messuage or tenement, the Complainant asked this Defendant's opinion whether S. W. who is named in the said bill, was not a fit person to take or become tenant of the said premises, and this Defendant having answered, that he, this Defendant, knew nothing to the contrary, the Complainant then desired, that if this Defendant should see the said S. W. this Defendant would send him to the Complainant, and the Complainant, at or about the same time, asked this Defendant at what yearly rent the said messuage or tenement was rated in the parish books; and this Defendant having answered that the said messuage or tenement was in such books rated at the yearly rent of £ , the Complainant further asked this Defendant whether the same would bear rising, for that the same was well worth £ a year, or conversation to such or the like effect then passed between the Complainant and this Defendant, to the best of this Defendant's remembrance and belief. But this Defendant also saith, that this Defendant's declaring that the said messuage or tenement was worth £ a year, proceeded from his speaking in a hurry, or by surprise, and without consideration, the said messuage or tenement being really worth to be let much more than £ a year. And this Defendant further saith, that this Defendant, having seen the said S. W. shortly after the aforesaid conversation with the Complainant, he, this Defendant, informed the said S. W. that the Complainant wanted to see him, the said S. W. for the purpose of treating with the said S. W. for letting unto the said S. W. the said messuage or tenement, or to such or the like effect. And this Defendant hath been since informed and believes, that the said S. W. did very soon afterwards go to the Complainant, and that, after some short treaty was had between them for the Complainant's letting the said messuage or tenement to the said S. W. they, the said S. W. and Complainant executed a writing, bearing date the day of last, and signed by them, whereby it was declared, that in case he the said S. W. should, on or before then next, purchase the said messuage or tenement from B. for which he was then in treaty with him, that he would then give a lease thereof to the said T. W. at the rent of £ per annum, although this Defendant, for greater certainty as to the date and material contents of such writing, craves leave to refer thereto, now in this Defendant's custody or power, the same having been obtained from the said S. W. by a relation of this Defendant's, and by him delivered to this Defendant. But this Defendant saith, he doth not know or believe that the Complainant, in writing or otherwise, entered into any absolute agreement, or any other agreement than as aforesaid, for letting the said messuage or tenement unto the said S. W. And this Defendant also saith, that, to the best of his, this Defendant's remembrance and belief, he, this Defendant, did not, at any time further or otherwise, with the said S. W. for letting the said messuage or tenement unto him, or executing any lease thereof unto him, nor was further, or otherwise than as aforesaid, privy to the execution or signing of the same agreement, dated the day of last, by the Complainant, or the said S. W. or either of them, or to the making of
any

any agreement between them for the Complainant's letting the said messuage or tenement unto the said S. W., before or at the time of executing, signing, or making thereof, or until some time afterwards. And this Defendant is advised, and humbly apprehends, that according to the terms of the said writing, dated the day of last, the Complainant cannot be answerable to the said S. W., or liable to make any satisfaction to him for or on account of his not executing a lease of the said messuage or tenement to the said S. W., or not letting the same to him in case the Complainant should not be able to purchase the same from this Defendant. And this Defendant absolutely insists, that the said within agreement, dated the day of , is now void and of no effect, as the said Complainant was not become the purchaser of the said messuage or tenement by now last past. And this Defendant further saith, he believes that the sum of £ in money, and an annuity of £ for the life of this Defendant, was not in the said month of last, near a full and valuable consideration for the purchase of the said freehold and inheritance of the said messuage or tenements. And denies combination, &c.

W. A.

Observation.—The answer takes no notice of the charge that the Defendant delivered the deeds to the attorney for the purpose of examining the title and preparing the conveyance; and that, therefore, in arguing the plea, that charge must be admitted to be true, there was nothing in the instructions concerning that charge.

The bill, and the facts stated in the answer, were laid before A. and S. separately, they both advised the Plaintiff to plead the statute of frauds.

The Lord Chancellor, Hilary term, over-ruled the plea in this cause, but ordered it to stand for an answer, with liberty to except and saving to the Defendants the benefit of the statute. At the hearing he considered the bill in the same light as if it had stated merely a parol agreement for the said matters contained in the bill, tending to shew a special performance of the agreement, were so frivolous they might as well have been left out. Considering the bill in that point of view, he thought the plea a bad one; because it went to the discovery of that which, if the court could be satisfied of the truth of it by any other means but by evidence they would decree performance of the agreement. He was, therefore, of opinion, that the plea should be supported by an answer denying the fact of the agreement, and seemed to think, that where the Defendant pleads the statute of frauds, and by his answer admits the agreement, the answer over-rules the plea, and the court would decree execution. He also observed, that where a bill stated an agreement, without mentioning it to be in writing, a demurrer would be the proper mode of pleading, according to the general rules of and principles of demurrers, because it appears on the face of the bill, that the Plaintiff has not made out such a case as entitled him to relief; but he added, that the usual course was to plead the statute to such a bill, and that the practice had obtained by analogy to the courts of law, where if the declaration stated an agreement, without mentioning it to be in writing, it was always usual to plead the statute in bar to it.

Plea

Plea of the Statute of Limitations.

This Defendant, by protestation to all the discoveries and relief in and by the said bill sought from or prayed against this Defendant, other than and except such parts of the said bill as seek a discovery of or concerning the age of T. N. P., in the said bill named, or a discovery whether the said T. N. P., out of respect or affection for the said T. P. his father, did not forbear, or was not unwilling to take or use any compulsory measures for obtaining a settlement of the accounts of the matters in the said bill mentioned, this Defendant doth plead in bar, and for plea saith, that by an act of parliament made and passed in the twenty-first year of king James I, intituled, "An Act for Limitations of Actions, and for avoiding Suits at Law," it was enacted, &c. (*state act*). And this Defendant, for further plea, saith, that if the Complainant, either in her own right, or as administratrix of the said S. N. deceased, or as administratrix of the said personal estate of the said R. N. deceased, in the said bill named, or otherwise ever had any cause of action or suit against this Defendant, or against the said T. P. this Testator, for or concerning any of the matters in the aforesaid bill of complaint mentioned, which this Defendant doth in no sort admit, such cause of action or suit did accrue or arise above six years before the filing of the Complainant's bill of complaint, and above six years before serving or suing out process against this Defendant to appear to and answer the same bill; and the said T. N. P. was not, at any time within upwards of six years before the filing of the Complainant's bill, or within upwards of six years before the serving or suing out process against this Defendant, to appear to and answer the said bill, nor hath the Complainant, at any time since the death of the said T. N. P., been under any of the disabilities mentioned and described in the said act of parliament. And this Defendant, for further plea, saith, that neither he, this Defendant, nor to his knowledge or belief the said T. P. deceased, this Defendant's Testator, did, at any time within six years, before exhibiting the said bill, or serving or suing out process against this Defendant, to appear to and answer the same, promise or agree to come to any account for, or to pay, or any ways satisfy the said Complainant, any sum or sums of money, for or by any reason, or matters, transactions, or things, in the Complainant's said bill of complaint charged or alledged. All which matters and things this Defendant doth aver to be true, and is ready and willing to maintain and prove, as this honorable Court shall award; and he doth plead the same in bar to the whole of the said bill, except such parts as aforesaid, and doth humbly demand the judgment of this honorable Court, whether he, this Defendant, ought to be compelled to make any further order, or answer to such parts of the said bill as he hath pleaded unto; and this Defendant, not waiving or relinquishing, &c. he, this Defendant, answereth and saith, he believes the said T. P. N. attained his age of _____ years in or about, &c. in the year, &c.; and this Defendant doth not know or believe, that the said T. P. N., for any time whatsoever, forbore or was unwilling, out of respect or affection for the said T. P. his father, to take or use any compulsory measures for obtaining any settlement of the accounts, in the bill mentioned. Without that, &c.

Plea, Defendant not legal Representative.

This Defendant, by protestation to all the discovery and relief sought and prayed by the Complainant's said bill, he, this Defendant, doth plead, and for plea he saith, that he, this Defendant, is not executor or administrator in the bill mentioned, or the legal representative of the said B., which said representative or representatives ought to be made party or parties to the Complainant's said bill, as this Defendant is advised. All which matters and things this Defendant avers to be true, and pleads the same to the said bill, and humbly demands the judgment of this honorable Court, and humbly prays to be dismissed, with his reasonable costs, &c.

Plea of the Statute of Frauds to a Parol Agreement, with a Statement of the Bill.

The bill in this cause stated, that in B. agreed to sell a house, called the inn, of which he was seized in fee to the Plaintiff for £ in hand, and an annuity of £ for B.'s life; that for securing the annuity, the Plaintiff agreed to give a bond, with one security, and also to demise the premises to a trustee for B., the indenture of demise to bear date subsequent to the conveyance from B. the Plaintiff. It was also agreed, that the Plaintiff should take the stock and household furniture at a fair appraisement; that Plaintiff and Defendant afterwards met in the presence of Plaintiff's attorney, when the agreement was again repeated and confirmed, and the attorney took notes of it at the time, and in the presence of the parties, that it was settled should be also prepared and executed before then next; that it was also agreed the said attorney should prepare the deeds, agreeably to the said notes, and that B. should put the title-deeds into his hands to inspect on behalf of Plaintiff, and to enable him to prepare the conveyance; and that by the conveyance, and that by the said agreement, the said title-deeds were never to be returned to B., but after the said conveyances were executed, were, with the said conveyance, and the said deed of demise to B.'s trustees, to be lodged in the hands of such trustees for the benefit of both parties; that the title-deeds were accordingly delivered to B. for the purpose; that the consideration for the said purchase was fully adequate; that Plaintiff and B., in pursuance of said agreement, fixed on a person to appraise the stock and furniture, and that Plaintiff, relying on the said agreement, had, with the privity, approbation, and consent of B., entered into articles of agreement with S. W. to give him a lease of the said house for years, as soon as the said purchase should be completed, to commence from then next; that the Plaintiff prepared the deeds, but before the appointment for the execution thereof, B. went to the attorney, and desired him not to proceed any further, and, at the same time, requested the Plaintiff to vacate the agreement, which Plaintiff refused to do, and on the day of tendered the £, and

and demanded possession ; that Defendant pretended the agreement was void, not being in writing, but Plaintiff insists, that it was in part performed in Plaintiff's delivering the deeds to the attorney for the purposes aforesaid, and by Plaintiff's binding himself, with Defendant's concurrence, to let the premises. Prayer for a specific performance.

The plea of A. to the bill of complaint of B., Complainant.

This Defendant, &c. as to so much of the said bill as seeks to compel this Defendant, or any person or persons claiming under him, to execute a lease, in writing, of the several lands and tenements in the bill mentioned, or of any of them, or of any part thereof, pursuant to the pretended agreement in the bill mentioned, and as to any relief thereby prayed touching such lease and agreement, this Defendant doth plead in bar, and for plea saith, that by an act of parliament made in the twenty-ninth year of the reign of his late majesty king Charles II., intituled "An Act for the Prevention of Frauds and Perjuries," it is, amongst other things, enacted, that from and after the day of , no action shall be brought whereby to charge any person upon any contract of lands, tenements, hereditaments, or any interest in or concerning them, unless the agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person thereunto lawfully authorized, as by the said act may appear. And this Defendant avers, that neither he, this Defendant, nor any person by him lawfully authorized, did ever make or sign any contract or agreement in writing for making or executing any lease to the Complainant of the same premises, or any of them, or of any part or parcel thereof, or to any such effect, as by the said bill is suggested, or any memorandum or note in writing of any agreement whatsoever, for or concerning the demising, or leasing, or making, or executing any lease of the said premises, or any of them, or any part or parcel thereof to the Complainant, and therefore this Defendant doth plead the said act of parliament, and matters aforesaid, in bar, to so much and such part of the said bill as seeks to compel this Defendant, or any person or persons claiming under him, to execute a lease to the Complainant of the several lands and tenements in the bill mentioned, or of any of them, or of any part or parcel thereof, pursuant to the said pretended agreement ; and as to any the relief thereby prayed touching such lease and agreement, and humbly prays the judgment of this honorable Court whether he shall be compelled to make any further or other answer, &c.

Plea of Bankruptcy.

This Defendant, by protestation, not confessing or acknowledging all or any, &c.

This Defendant doth plead, and for plea saith, she hath been informed and believes that the Complainant and J. B. the younger, his son, did, for some years before the month of , carry on the business of merchants,

as co-partners together, at L., in the county of Y. And that they were, before and on, &c. jointly indebted, on account of the partnership dealings, to many persons to a large amount in the whole, and particularly to H. W. in the sum of £ ; and that the said Complainant, and the said J. B. the younger, were, before and on the, &c. severally indebted, on their respective separate accounts, to many persons to a large amount in the whole ; and that the Complainant and the said J. B., or one of them, on their said partnership account, before the said, &c. committed one or more act or acts of bankruptcy, and that a commission of bankruptcy, under the great seal of Great Britain, on the said day of , was duly issued against them, under the names of J. B. the elder, and J. B. the younger, on the petition of the said H. W., and that they were thereupon, by the major part of the said commissioners named in the said commission, soon after duly found and declared to be bankrupts, as co-partners ; and that the said H. W., &c. &c. were duly chosen assignees of the estate and effects of the Complainant and his said son, under the said commission ; and that the usual assignment was made by the major part of the said commissioners, named in the said commission, unto the said H. W., &c. of the personal effects of the said Complainant and his said son, and each of them ; and that by indenture of B. and S., duly inrolled in this honorable Court in the year , the major part of the commissioners, named in the said commission of bankruptcy, also made the usual conveyance unto the said assignees of all the real estate of the said Complainant and his said son, and each of them ; and that the Complainant, shortly after the issuing of the said commission of bankruptcy, obtained the usual certificate from in number and value of the joint creditors of him and of his son also, and also of the separate creditors of him, the said Complainant, who proved their debts under the said commission of bankruptcy, and also from the major part thereof, from the commissioners named in the said commission ; and that Plaintiff had duly conformed himself to the several laws made and in force concerning bankrupts. And this Defendant hath also been informed and believes, that such certificate was duly confirmed by the right honorable the late Lord Chancellor. And this Defendant, for further plea, saith, she believes that the said commission of bankruptcy hath never been superseded, but that the same is now remaining in full force, and therefore as the right claimed by the said bill to the estates therein mentioned, and to the rents and profits, appears by the said bill to have accrued, and if the same is just and well founded did really accrue long before the date and issuing forth of the said commission, this Defendant is advised, that the said Complainant's right and interest to and in the said estate, and the rents and profits thereof, was, at the time of the filing of the said bill, and is now, vested in the said assignees, under the said commission of bankruptcy, for the benefit of them and the other creditors of the said Complainant and his son, and of the Complainant alone. All which matters and things this Defendant doth aver to be true ; and she pleads the same to the whole of the said bill, and humbly demands the judgment of this honorable Court whether she ought to be compelled to make any further or other answer thereto.

Plea of Alien Enemy.

This Defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said Complainant's said bill mentioned, to be true, in such manner and form as the same are therein and thereby set forth and alledged, doth plead thereunto, and for plea saith, that the said Complainant is an alien born in foreign parts, that is to say, in the kingdom of Spain, out of the allegiance of our lord the now king, and under the allegiance of a foreign sovereign, that is to say, of the king of S., an enemy to our said lord the king; and that the said Complainant, before and at the time of his exhibiting his said bill against this Defendant, was and still is an enemy of our lord the now king, and an inhabitant of C., under the government of the said king of S., and adhering to our said lord the king's enemies. All which matters and things this Defendant doth aver to be true, and pleads the same to the whole of the said bill, and humbly demands the judgment of this honorable Court whether he ought to be compelled to make any answer to the said bill of complaint, and humbly prays to be hence dismissed, with his reasonable costs in this behalf most wrongfully sustained.

J. L.

A joint Plea of a valuable Consideration by Executors of Purchaser.

In Chancery,

The joint and several plea of J. G., W. S., J. B., and F. L., four of the Defendants, to the bill of complaint of J. T. Complainant.

These Defendants, by protestation, not confessing or acknowledging all or any of the matters and things in the said Complainant's said bill of complaint contained, to be true, in such manner and form as the same are therein and thereby alledged; as to all the discovery and relief in and by the said bill sought from or prayed against these Defendants, these Defendants do plead thereto, and for plea say, that M. B., in the said Complainant's said bill of complaint named, was, at and prior to the dates and execution of the indentures hereinafter in part set forth, seized or entitled in fee-simple of and in certain messuages or tenements, and other premises, hereinafter particularly mentioned, of which premises the said M. B. being also in the quiet and uninterrupted possession and enjoyment. (*State the sale and consideration paid as a plea in bar.*)

SECT. IV.—DISCLAIMER.

A DISCLAIMER is, where a Defendant upon oath, by his answer denies he hath, or claims any right or title to the thing demanded by the Plaintiff's bill, and disclaims, *i. e.* renounces all claim or pretence of title thereto.

Where a Defendant disclaims generally to all the matters in the bill, the Plaintiff has not to reply; if he does, and serves the Defendant with a *subpœna* to rejoin, the Defendant may have costs against him for the vexation to be taxed.

But if the disclaimer be only to part of the matter in question, but as to the other part, there is an answer, in such case there may be replication to that part that contains the answer.

A Defendant may demur to one part of a bill, plead to another, answer to another, and disclaim to another; but all these defences must clearly refer to separate and distinct parts of the bill. (1 P. IV. 80.)

A Defendant cannot by answer claim, what by disclaimer he has declared he has no right to. (Mit. 254.)

If a disclaimer and answer are inconsistent, the matter will be taken most strongly against the Defendant upon the disclaimer. (Mit. 234.)

A disclaimer being in point of form an answer, the words of course preceding, and concluding the one, are pursued in regard to the form of the other. (Hind. 209.)

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The disclaimer of A. B., the Defendant, to the bill of complaint of C. D., Complainant.

This Defendant (*here follow the words of course which precede an answer,*) saith, that he doth not know that he, this Defendant, to his knowledge or belief, ever had, nor did he claim, or pretend to have, nor doth he now claim, any right, title, or interest of, in, or to the estates and premises, situate, &c. in the said Complainant's bill set forth, or any part thereof, and this Defendant doth disclaim all right, title, and interest to the said estate and premises in, &c. in the said Complainant's bill mentioned, and every part thereof. (*Here follow the words of course which conclude an answer.*)

An Answer and Disclaimer.

The several answer and disclaimer of A. B., one of the Defendants, to the bill of complaint of , Complainant.

This Defendant, saving and reserving to himself, now and all times hereafter, all manner of advantage and benefit of exception that may be had and taken to the many untruths, uncertainties, insufficiencies, and imperfections, in the said Complainant's said bill of complaint contained, for a full and perfect answer thereunto, or to such part thereof as it materially concerns this Defendant to make answer unto, he answereth and saith, that he believes that C. D. did die seized of such estates in and , as in the said Complainant's said bill are mentioned. And this Defendant does believe, that the said C. D. did make such last will and testament in writing, and did thereby create such trusts out of the said estates, and appointed this Defendant trustee thereof, in such manner, and to such purport and effect, as in the said Complainant's said bill for that purpose set forth. And this Defendant does believe, that the said Testator made E. F., gent., executor of his said will; and this Defendant does believe, that the said C. D. soon after making his said will, departed this life, that is to say, on or about the day of , in the year , without revoking or altering his said will, seized of such estates in and , as in the said Complainant's said bill are set forth. And this Defendant further saith, that he was advised, that the said trust would be attended with some difficulty, besides expense and loss of time, to this Defendant; therefore this Defendant absolutely refused to intermeddle therewith, or any way concern himself therein. And this Defendant denies, that he, or any for him, ever entered on the said trust estate, or ever received any of the rents and profits thereof; but this Defendant has been informed and believes the same were received by G. H., of the city of , in the said county of , gent., who was employed by the said Testator C. D., in his life-time, to receive the rents and profits of the said estate for the said C. D. And this Defendant

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ant doth believe, that the said G. H. hath received the said rents and profits of the said trust estate ever since the death of the said Testator C. D., and still doth continue to receive the same. And this Defendant positively denies, that the said G. H. had any power, authority, or direction from this Defendant to receive all or any part of the rents and profits of the said trust-estate, or that he ever accounted to this Defendant for the same; and this Defendant is very desirous and ready to be discharged from his said trust, and to do any act for that purpose as this honorable Court shall direct, this Defendant being indemnified in so doing, and having his costs. And this Defendant further saith, that as to so much of the said bill as seeks a discovery of this Defendant's title to the lands in , this Defendant saith, that he doth not know that he, this Defendant, to his knowledge or belief, ever had, nor did he claim or pretend to have, nor doth he now claim or pretend to have, any right, title, or interest of, in, or to the said estate in , in the said Complainant's bill set forth, or any part thereof; and this Defendant doth disclaim all right, title, and interest to the estate in , in the Complainant's said bill mentioned, and every part thereof. And this Defendant doth deny all manner of unlawful combination and confederacy unjustly charged against him in and by the said Complainant's said bill of complaint; without that, that any other matter or thing, in the said Complainant's said bill of complaint contained, material or necessary for this Defendant to make answer unto, and not herein or hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true. All which matters and things this Defendant is ready to aver, maintain, and prove, as this honorable Court shall award, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

CHAPTER VII.

SECT. I.

OF INTERLOCUTORY MATTERS.—PETITIONS.

AS the common books of practice contain a variety and numerous selection of petitions upon the most ordinary occasions, the following selection will exhibit such forms of petitions only which have never been before the public in print, without any regard to those petitions which merely pray for matters of course.

A petition is the request of a person in writing, directed to the Lord High Chancellor, Vice Chancellor, or Master of the Rolls, shewing some matter or cause whereupon the petitioner prays some direction or order.

Brevity and form are the two things chiefly to be observed in drawing them.

Sometimes they are upon collateral matters, as they have relation to some former suit or cause depending, or to an officer of the court as to have a clerk or solicitor's bill taxed, or to oblige him to deliver up papers, &c.

Petition for sale of mortgaged Premises, the Mortgagee being a Bankrupt.

In the matter of D. T., a bankrupt.

To the Right Hon. the Lord High Chancellor of Great Britain.

The humble petition of T. S., of M., gent.

SH EWETH,

That the said D. T. did, on or about the day of , by way of security of £ then lent and advanced to him by J. L., late of M., gent., surrender into the hands of the lord of the manor of T. All, &c. To the use and behoof of the said J. L., his heirs and assigns, according to the custom of the said manor. To hold, &c.

That by an indenture, bearing date the said day of , and made between the said D. T. of the one part, and the said J. L. of the other part. It was agreed, &c. (*state such part of mortgage deed as necessary.*)

That on the same day of , the said D. T. made and executed his bond to the said J. L. in the penal sum of £ , with a condition thereunder written for making void the same on payment of the said sum of £ and interest, at a day therein mentioned, and long since past.

That by a deed-poll, bearing date on the day of , the said J. L., amongst other property, assigned to your petitioner all monies due to him the said J. L., upon mortgages, upon trust, for the benefit of his children, in manner therein mentioned, subject to an interest therein for his own life; and the said J. L. afterwards departed this life in the year .

That a commission of bankrupt, bearing date, &c. was awarded and issued against the said D. T., and he was thereupon duly found and declared a bankrupt, and the usual assignment of his estate and effects hath been made to, &c.

That the whole of the said sum of £ , so lent and advanced by the said J. L. to the said D. T., now remains due and unpaid, together with an arrear of interest thereon from, &c.

That, on or about, &c. your petitioner caused a written notice, signed by your petitioner, and also by J. M. L., the eldest son and heir of the said J. L., and in whom the legal estate in the said copyhold premises is now vested, to be served on the major part of the commissioners in the said commission named, and also on R. W., the solicitor to the said commission, requesting the said commissioners to proceed to inquire whether, &c.

That the said commissioners have not thought fit to take any step in consequence of such notice.

Your petitioner therefore most humbly prays your Lordship, that the said mortgaged premises may be sold before the major part of the commissioners in the said commission named; and that an account may be taken of what is due to your petitioner, as such assignee as aforesaid,

aforesaid, for principal and interest on the said mortgage, and that the purchase monies of the said premises may be applied in satisfaction of what shall be found due to your petitioner upon such account; and if such purchase monies shall be insufficient for that purpose, then that your petitioner may be admitted as a creditor, under the said commission, for such deficiency, and may receive dividends thereon *pari passu* with the other creditors of the said bankrupt, or that your Lordship will be pleased to make such further or other order in the premises as your Lordship shall seem meet. And your petitioner shall ever pray, &c.

Petition to call a Meeting of Commissioners for the Purpose of proving a Debt, recovered by Action, against the Bankrupt,

In the matter of M. N., a bankrupt.

To the Right Hon. the Lord High Chancellor of Great Britain.

The humble petition of G. N. N., G. T., N. M., R. J., and J. W., of, &c. bankers and co-partners.

SH EWETH,

That the said M. N., the bankrupt, being, on the day of , indebted to your petitioners in the sum of £ , as the drawer of bills of exchange, and the indorsee of one promissory note, all of which had been discounted by your petitioners for the said M. N. Your petitioners, on the said day of , sued out a bailable writ against the said M. N. for the said sum of £ , and caused the said M. N. to be arrested thereon, and the said M. N., not being able to find bail in such action, was soon afterwards committed to the K. B. prison.

That, on the day of , your petitioners caused another writ to be issued against the said M. N. for the sum of £ , being the amount of another bill of exchange, discounted by your petitioners for the said M. N., which had fallen due subsequent to the issuing of the former writ.

That a commission of bankruptcy (*in the usual mode*.)

That the said M. N. suffered judgment to go by default in both the said actions, so commenced against him by your petitioners as aforesaid, and, on the day of , your petitioners caused writs of inquiry to be executed in the said actions, and in the first of such actions your petitioners recovered, for damages and costs, the sum of £ , which included not only the amount of bills and the promissory note aforesaid, but also the further sum of £ for the cash balance due from the said M. N. to your petitioners; and in the second of such actions your petitioners recovered for damages and costs the sum of £ .

That, on the day of , your petitioners delivered to the said assignees a particular of their demands against the estate of the said bankrupt,

bankrupt, which were therein stated by mistake at £ , but ought to have been stated at £ more ; and, on the day of , your petitioners delivered to the said assignees a particular of certain freehold and leasehold premises which had been mortgaged to your petitioners by the said bankrupt, by way of collateral security for the debt due to them, in order that the said mortgaged premises might be sold, and the produce applied in reduction of your petitioners' demands, and that they might then be able to prove, under the said commission, for the balance due to them.

That the said assignees accordingly caused the said property to be put up for sale by auction at G.'s coffee-house on or about the day of , and your petitioners received from the produce of such property the sum of £ , which, being deducted from the said sum of £ , leaves a balance due to your petitioner, on the judgment in the said action, of the sum of £

That in or about the month of , your petitioners were applied to by the friends of the said bankrupt to discharge him from prison, and your petitioners consented to liberate the said bankrupt, if it met with the approbation of his assignees.

That, in consequence thereof, Mr. P., a solicitor, employed on the part of your petitioners, called on Mr. R., who was the acting solicitor of the assignees, and informed him, that he the said Mr. P. had instructions to liberate the bankrupt, if the assignees had no objection ; but that if the assignees objected thereto, he the said Mr. P. was to act therein agreeably to their wishes.

That the said Mr. R. then said, that it would be best not to let the said bankrupt have his liberty until he had executed the conveyance deeds of all the property which had been sold on the day of as aforesaid ; but the said bankrupt should get out of the way, and thereby occasion great trouble and difficulty in the execution of the said deeds ; and the said Mr. R. then requested that the said bankrupt might not be liberated until he had executed all the said conveyances.

That, by the course of such proceedings, the said bankrupt would have been superscedable in the said actions, unless he had been charged in execution within term ; and the said Mr. P., therefore, in order that the said bankrupt might, in compliance with the wishes of the said Mr. R., and for no other reason whatsoever, on the day of charged the said bankrupt in execution in the said first action in which your petitioner had, as aforesaid, obtained judgment for £

That three of the conveyances of the premises sold as aforesaid on the day of were executed by the said bankrupt in the latter end of , and the beginning of , and another of such conveyances was not executed until the day of .

That there is now due to your petitioners the sum of £ in respect of the said first action, and also the said sum of £ , recovered in the said second action ; and there is also due to your petitioners a further sum of £ , being the amount of another bill of exchange discounted by your petitioners for the said M. N., and which became due after the said two actions were commenced, but before the bankruptcy of the said M. N. ; and there is also due to your petitioners a considerable further sum for costs incurred in the said two actions, and in other actions

actions brought against the acceptors, and other parties on the said bills of exchange, and for expenses attending the sale of the mortgaged premises.

That a dividend of the said M. N.'s being advertised for the day of last, and neither of your petitioners being then able to attend to prove their said debts against the said bankrupt's estate, the solicitor of your petitioners attended the commissioners, acting under the said commission of bankruptcy against the said M. N. at , on that day for the purpose of entering a claim for the said sum of £ , which remained due to your petitioners in respect of the said first action, and for the sum of £ recovered in the said second action, the said solicitor not being then aware of the said further sum of £ due to your petitioners in respect of such subsequent bill as aforesaid.

That the said claim was opposed by counsel, and the said commissioners thereupon permitted a claim to be entered, and a dividend to be reserved in respect of the said bill for £ , for which the said second action was brought, but the said commissioners refused to permit any claim to be entered on the said sum of £ remaining due in respect of the said first action, on the ground that your petitioners, by charging the said bankrupt in execution in such first action, had made an election not to come in under the said commission, with respect to the said demand.

That your petitioners had no intention whatever to make an election to proceed at law, as to their demand in the said first action, by charging the said bankrupt in execution thereon, and on the contrary thereof they had then fully determined to forego their said debt under the said commission. And your petitioners verily believe, that the said assignees well understood that such was your petitioners' determination, and your petitioners did not in fact know that the said bankrupt was so charged in execution; but the solicitor, acting for your petitioners, of his own notion, charged the said bankrupt in execution for no other reason than because it was necessary for the purpose of detaining the said bankrupt in prison, according to the wish of the said assignees, and because your petitioners had desired that he should do, with respect thereto, whatsoever the said assignees should require; and the said solicitor was not himself aware, that the act of charging the bankrupt in execution did in form constitute an election to proceed at law.

Your petitioners therefore most humbly pray that your Lordship will be pleased to grant an order for your petitioners to be at liberty to call a meeting of the said commissioners, acting under the said commission so issued against the said M. N., in order that your petitioners may prove their respective debts under the same, or that your Lordship will be pleased to make such order, as to your Lordship should seem meet. And your petitioners shall ever pray, &c.

J. L.

Petition by Assignees against their Bankrupt, who was an Executor and residuary Legatee, to restrain him from receiving further Part of his Testator's Property, and to pay what he had so received.

In the matter of H. C., a bankrupt.

To the Right Hon. the Lord High Chancellor of Great Britain.

The humble petition of J. B. the elder, of, &c. and R. G., of, &c. assignees of the estate and effects of the said bankrupt.

SHEWETH,

That on the day of , a commission of bankrupt, under the great seal of Great Britain, was awarded and issued against the said H. C., then of, &c. and he was thereupon duly found and declared a bankrupt, and the usual assignment of his estate and effects was made to your petitioners, who were duly chosen by a majority of his creditors for that purpose.

That the said bankrupt was the sole executor named in the will of J. B., late of, &c. who died upwards of years since, and was also entitled, under the will of the said J. B., to his residuary estate and effects, subject to the life-interest of S. B., the widow of the said J. B. therein.

That the said S. B. died after the issuing of the said commission against the said H. C., and her executors having possessed themselves of the property which belonged to her husband, and to which the said bankrupt became entitled upon her death, and having employed a Mr. F., an auctioneer, to sell the same, he, the said bankrupt, as executor of the said J. B., caused an action to be brought against the said Mr. F., in order to recover the value of the said goods, and W. D., the attorney of the said bankrupt, in the said action afterwards received from the said Mr. F. the sum of £ , in respect of the said action, over and above the sum of £ for his costs.

That the said bankrupt brought the said action without giving any notice thereof to your petitioners, and your petitioners only learned the same from the solicitors concerned for the executors of the said S. B.

That your petitioners caused applications to be made to the said bankrupt and to the said Mr. D. for the payment to your petitioners of the said sum of £ , as part of the estate of the said bankrupt; but the said bankrupt, and the said Mr. D. on his behalf, although they admitted, that there were no outstanding demands against the estate of the said J. B., other than the bill of the said Mr. D., and the proctor's bill for the proof of the will, refused to pay to your petitioners the said sum of £ , insisting that your petitioners were premature in calling upon the said bankrupt to account for the same, inasmuch as there was property of the said J. B. in the hands of a Mr. R. and a Mr. N., against whom the said bankrupt meant to proceed, and that he would account to your petitioners for the estate of the said J. B. when he had finally settled the same.

That

That your petitioners, considering the said sum of £ would be in danger of being lost to the creditors of the said bankrupt, if permitted to remain in his hands, did, on the day of cause the said Mr. D. to be served with notice not to pay the said sum of £ to the said bankrupt, but to pay the same to your petitioners, as his assignees; but notwithstanding such notice, the said bankrupt hath since received from the said Mr. D. the sum of £ , part of the said sum of £ .

That it may be injurious to the creditors of the said bankrupt, who have proved their debts under the said commission, if the said bankrupt is permitted to receive or recover such other estate and effects of the said J. B. as may now be outstanding.

Your petitioners therefore humbly pray your Lordship that the said bankrupt may be directed to pay over to your petitioners the said sum of £ , so received by him from the said M. D. as aforesaid, and that the said bankrupt may be restrained from receiving any further part of the said estate and effects of the said J. B. and that the said bankrupt may also be restrained from commencing or proceeding in any action or suit for the recovery of any part of the outstanding estate and effects of the said J. B., and that your petitioners may be at liberty to use the name of the said bankrupt for receiving or recovering the residue of the said sum of £ , so remaining in the hands of the said Mr. D., and the other outstanding estate and effects of the said J. B., and that the said bankrupt may, if necessary, execute to your petitioners a proper authority for that purpose, or that your petitioners may have such other relief as the nature of the case may appear to require. And your petitioners shall ever pray, &c.

Petition to prove an Annuity or the Value thereof.

In Chancery.

In the matter of W. H. and R. J. bankrupts.

To the Right Hon. the Lord High Chancellor of Great Britain.

The humble petition of E. H. widow and relict of J. H. late of, &c. deceased, and sole executrix appointed in and by his last will and testament.

SH EWETH,

That by a certain indenture, bearing date on or about, &c. and made between, &c. (being the deed securing the annuity of £ per annum, payable to J. H. and wife, and the longer liver, in consideration of J. H.'s retiring from the business of distillers.)

That the said W. H. and R. J. did duly make and execute such two bonds or obligations in writing, as in the said indenture are stated to bear even date therewith, and in such words, or to such purport and effect as in the said indenture are recited.

That the said J. H. departed this life on or about, &c. leaving your petitioner,

petitioner, his widow, and having first duly made and published his last will and testament in writing, and thereby gave and bequeathed all his property, of what nature and kind soever, to your petitioner, whom he appointed the sole executrix of his said will.

That on or about, &c. a commission of bankrupt, under the great seal of Great Britain, was awarded and issued against the said W. H. and R. J. who were thereupon duly found and declared a bankrupt, and were duly chosen assignees of their estate and effects; and an assignment thereof hath been duly made and executed to them by the major part of the commissioners named and authorized in and by the said commission.

That at the time of issuing the said commission, there was due to your petitioner the sum of £ for arrears of the said annuity, and the said bond for securing the said annuity, having been forfeited at law, your petitioner hath lately attended at a meeting of the commissioners acting under the said commission, to prove the said arrears, and also to prove the value of the said annuity; but the said commissioners, although they admitted the proof of the said arrears, refused to admit your petitioner to prove the value of the said annuity.

That no dividend has yet been made of the estate and effects of the said bankrupt.

Your petitioner therefore most humbly prays your Lordship that she may be admitted a creditor under the said commission, for the value of the said annuity, and that it may be referred to the commissioners acting under the said commission, to settle such value; and that your petitioner may, from time to time, be paid dividends in respect thereof, rateably and in equal proportion with the other creditors of the said bankrupts, seeking relief under the said commission.

J. L.

Petition by Creditors against the Assignees, under a Commission of Bankruptcy, to have them removed, they not being Creditors, but the Friends of the petitioning Creditors, and for them to account for what had come to their Hands, and deliver up all Papers, &c.

In the matter of W. and J. O. bankrupts.

To the Right Hon. the Lord High Chancellor of Great Britain.

The humble petition of

SHREWETH,

That on or about the day of , a commission of bankrupt, under the great seal of Great Britain, was duly awarded and issued against the said W. and J. O. of, &c. and copartners, upon the petition of , and the said W. and J. O. were thereupon duly found and declared bankrupts, by the major part of the commissioners named and authorized in and by the said commission.

That the said Messrs. N. T. and Co. the petitioning creditors, at the first public meeting under the said commission proved their debt, as
amounting

amounting to £ and upwards, but did not then exhibit to the commissioners any account to shew how the said debt was made out, as is usual and regular in such cases.

That at the meeting for the choice of assignees, the said Messrs. N. T. and Co. altered the proof of their debt to the sum of £ , and then exhibited their account, stating the particulars thereof; and the said Messrs. N. T. and Co. by reason of the amount of their debt, having the choice of assignees, chose the said N. M. one of their partners, and P. M. esq. who is not a creditor of the bankrupt, but is a particular friend of the said Messrs. N. and Co. to be the assignees of the said bankrupt's estate.

That the said bankrupts were, at the issuing of the said commission, indebted to your petitioner, A. B. in the sum of £ (*Here state the debts of the respective petitioners.*)

That the debts proved under the said commission, by other persons than the said Messrs. N. and Co. amount altogether to the sum of £ .

That no dividend was made or declared under the said commission until the day of , when a dividend was declared of in the pound, and the said Messrs. N. and Co. at the meeting, of which such dividend was declared, again altered the proof of their debt, and made the same amount to the sum of £ , according to a statement which they then exhibited, and which differed from their former statement, not only by carrying further sums to the debit of the said bankrupts, but also by reducing a sum of £ , with which they had before credited the estate of the said bankrupts, in respect of securities of C. P. transferred to them by the said bankrupts, to the sum of £ , and by omitting altogether a sum of £ , with which they had before credited the said bankrupt's estate in respect of sir W. J.'s assignment of all reckonings.

That the said assignees produced, at such meeting, an account of the bankrupts' estate received by them, amounting, in the whole, to the sum of £ , the first article of which was thus stated:—"By cash received of sundry debtors to the estate by Messrs. N. and Co. £ ." And on the other side of the account was an article thus stated:—"To cash retained by Messrs. N. and Co. being the amount of debts received by them, and upon which they have a specific lien, or are to give credit on account of their demand against the estate, £ ."

That the said Messrs. N. and Co. claim to have a lien upon securities given to the bankrupts to a very great amount, which securities were transferred to the said Messrs. N. and Co. very shortly before the bankruptcy, and when they had full knowledge of the insolvency of the said bankrupts.

That the said bankrupts had a house of business at P. on which they drew bills to a large amount, and which were negotiated through the house of the said Messrs. N. and Co.; and the said Messrs. N. and Co. on the negotiation of such bills, not only charged the full rate of exchange thereon, which, according to the course of such transactions, includes the interest or discount for the time which such bills have to run, but also made a further specific charge after the rate of £ per cent. per ann. for such interest or discount, thereby taking an unscrupulous advantage of the said bankrupts.

That by reason of the said N. M. and P. M. the assignees, being such partner and friend of the said Messrs. N. and Co. as aforesaid, and having the possession of all the books and papers of the said bankrupts, and the controul of their affairs, the accounts of the said Messrs. N. and Co. with the said bankrupts, cannot be fairly and fully investigated, nor justice done to the other creditors of the said bankrupts, unless new assignees be appointed.

Your petitioners therefore humbly pray your Lordship that the said N. M. and P. M. may be respectively discharged from being assignees under the said commission, and that a meeting may be had of the commissioners named in and authorized by the said commission, for the choice of one or more assignee or assignees of the said bankrupts' estate and effects, in the places and steads of the said N. M. and P. M. and that the said N. M. and P. M. may be directed to deliver to such person or persons as shall be chosen such new assignee or assignees, such part of the estate and effects of the said bankrupts as shall appear to be in their hands remaining in specie, together with all books, papers, and writings, in their, or either of their custody or power respectively belonging, or any wise relating to the said bankrupts, or their estate and effects, and that the said N. M. and P. M. may join in assigning over of the said bankrupts' estate to such new assignee or assignees, and that the said N. M. and P. M. may be respectively ordered to come to an account before the major part of the commissioners, for what hath come to the respective hands of the said N. M. and P. M. or to the hands of any other person or persons, by their respective orders, or for their respective uses; and that all necessary directions may be given concerning the taking such accounts, or that your Lordship will be pleased to make such order in the premises as to your Lordship shall seem meet. And your petitioners shall ever pray, &c.

J. L.

Petition by a Bond Creditor to have certain Property assigned to him as a Security, sold, and to prove the Deficiency under the Commission.

In the matter of J. A. a bankrupt.

To the Right Hon. the Lord High Chancellor of Great Britain.

The humble petition of T. A. of in the
county of M.

SHewETH,

That in or about the month of G. P. then a partner in a
banking-house in B. street, with J. S. J. D. G. T. S. and the said J. A.
applied to your petitioner to accommodate the said banking-house with
a loan of money or stock, and thereupon your petitioner agreed to lend
to the said banking-house the sum of £ Navy 5 per cent. annuities,
which your petitioner then had standing in his name, on the engagement
of

of the said G. P. that the several partners of the said banking-house should give your petitioner their joint and several bond for replacing the said stock, and paying to your petitioner the dividends in the mean time, as hereinafter stated, and should also give to your petitioner some real security for the same.

That your petitioner, on or about the day of , accordingly transferred the said sum of £ Navy 5 per cent. annuities to the said G. P. for the use of the said banking-house; and thereupon the said J. S. &c. made and executed their joint and several bond to your said petitioner, in the principal sum of £ , with a condition thereunder written, for making void the same, if the said J. S. &c. (*set out to the end of the bond.*)

That in the said condition of the said bond, and also in the indenture of the , hereinafter mentioned, the stock transferred by your petitioner as aforesaid, was, by mistake, stated to be £ , 5 per cent. Bank annuities, in the place of £ , 5 per cent. Navy annuities.

That, in further performance of the agreement between your petitioner and the said G. P. the said Messrs. S. and Co. at the same time, by way of further security for the said stock, and also, by way of security to the honorable C. A. for a debt due to him from the said banking-house, deposited with Mr. L. in trust for your petitioner and the said honorable C. A. the several deeds whereby the said banking-house had become interested in two several sums of £ and £ , secured on certain estates of P. B. esq. in the indenture hereinafter next mentioned, and more particularly stated.

That, by a certain indenture of four parts, bearing date on or about the day of , and made between, &c. (*the deed assigning over the two last sums, as a security to petitioner, it is necessary to state this deed, as it shews more clearly the nature of the interests to be sold.*)

That the said indenture was duly executed by all the said parties thereto, except the said J. D. but the said J. D. was a party to the deposit of the said deeds with the said Mr. L. and directed the same, or fully approved thereof.

That a commission of bankrupt, bearing date on or about the, &c. was awarded and issued against the said J. A., and he was thereupon duly found and declared a bankrupt, and the usual assignment of his estate and effects hath been made to, &c.

That no part of the said sum of £ , 5 per cent. Navy annuities, was re transferred to your petitioner, pursuant to the condition of the said bond, nor hath since been re-transferred to him, and the whole thereof, together with the amount of the dividends, from the day of , now remains due and owing to your petitioner.

Your petitioner therefore most humbly prays your Lordship that the interest of your petitioner's said two several sums of £ and £ , and in the security for the same, mentioned in the said indenture of the may be sold before the major part of the commissioners in the said commission named; and that an account may be taken of what is due to your petitioner in respect of the principal of the said sum of £ , 5 per cent. Navy annuities,

and of the dividends thereon ; and that the purchase-money arising from such sale as aforesaid, may be applied in or towards satisfaction of what shall be found due to your petitioner, upon such account. And that if such purchase shall be insufficient to pay to your petitioner what shall so be found due to him, then that your petitioner may be admitted as a creditor under the said commission, against the said J. A. for such deficiency, and may receive the dividends thereon from his separate estate, from passing with the other creditors of the said bankrupt, or that your Lordship will be pleased to make such further or other order in the premises as to your Lordship shall seem meet. And your petitioners shall ever pray, &c.

Petition to have certain Shares of Stock transferred to each Petitioner, they having attained their respective Ages, with a Decretal Order recited. Opinion as to the Affidavits necessary as to coming of Age, and Affidavits of Incapacity to maintain Infants without an Allowance.

Between W. W. the elder, and M. his wife, since deceased, Z. G., lately deceased, and M. his wife, R. W., now R. and J. W., E. W., &c. &c. infants, by the said W. W. the elder, their father and next friend, Plaintiffs,

and

W. H., since deceased, J. D. W. and W. J. Defendants.

To the Right Hon. the Master of the Rolls.

The humble petition of W. W. the elder, &c. &c. above named.

SHEWETH,

That J. D. late of, &c. duly made and published his last will and testament in writing, bearing date on or about the day of whereby, after giving, &c.

That the said Testator, after the making of his said will, duly made and published a codicil thereto, bearing date, &c. and thereby gave certain pecuniary legacies therein mentioned, but did not, by such codicil, any otherwise revoke or alter his said will.

That the said Testator departed this life in the said, &c. without having revoked or altered his said will, except as before mentioned ; and soon after his death, the said executors, T. D., S. O., and the Defendant, W. H. duly proved such will and codicil in the Prerogative Court of the archbishop of C. and took upon themselves the executorship thereof.

That, in pursuance of the directions of the said will, the said executors laid out and invested the clear residue or surplus of the said Testator's personal estate, exclusive of his said share in such copartnership, in the purchase of £ Bank 3 per cent. &c. which sum was transferred into their own names in the books of the Governor and Company of the Bank of England, and the interest or dividends arising therefrom, were duly paid according to the directions of the said will to the said M. W.

That the capital of the said Testator, which was, at the time of his death,

death, employed in the said partnership business, continued to remain and be employed in such business, and the same was carried on for the joint benefit of the said D. D. the surviving partner, and the persons interested under the said will, from the time of the said Testator's death, until the death of the said D. D.

That the said D. D. departed this life some time in, &c. and the said partnership connection being thereby determined, the said T. D., S. O., and the Defendant, W. H., as executors and trustees under the said will, soon afterwards received the amount of the said Testator's share of the capital employed in the said partnership business, and they therefore laid out and invested the same in the purchase of the sum of £ 3 per cent. &c. which, with the former sum of £ , arising from the other residuary estate of the said Testator, made together the sum of £ 3 per cent. &c. and soon afterwards the said S. O. departed this life.

That the said T. D. and W. H. after the death of the said S. O. their co-executor, in breach of their trust, sold out and transferred the sum of £ , part of the sum of £ , for the purpose of employing the produce in carrying on the trade or business of salt-merchants, in a partnership which had been agreed upon between them and one K. T. L.

That the said T. D. departed this life some time, &c. and the said T. D. and W. H. did not, in the life-time of the said T. D. replace the said £ trust Bank annuities, or any part thereof, but continued to employ the same for some time after the death of the said T. D. and the said W. H. then replaced the said sum of £ , 3 per cent. Bank annuities, and procured the same, together with the residue of the said £ , to be transferred into his own name in the books of the Governor and Company of the Bank of England.

That your petitioners, M. G., R. R., J. W., E. W., &c. &c. being with your petitioner J. D. W. then and now the only children of the said Testator's said daughter, M. W. did, with your petitioner W. W. the elder, and the said M. W. their mother, on or about, &c. exhibit their bill in this honorable Court against the said W. H., and your petitioner, J. D. W., and W. J., who are the personal representatives of the said T. D. stating to the effect aforesaid, and praying, &c.

That by an order made in this cause, bearing date on or, &c. it was ordered, with the consent of the said Defendants, that the said Defendant, W. H. should transfer the said sum of £ , 3 per cent. standing in his name, as aforesaid, into the name and with the privity of the Accountant-General of this Court, in trust in this cause. And the said Accountant-General was to declare the trust thereof accordingly. And it was further ordered, that the interest which should accrue on the said Bank annuities, when so transferred, should, from time to time, as the same should become due, be paid to the said M. W., the daughter of the said Testator, for her separate use during her life, or until the further order of this Court. And for that purpose the said Accountant-General was to draw on the Bank according to the form prescribed by the act of parliament, and the general rules and orders of this Court, in that case made and provided.

That no decree hath yet been made in the said suit, and that the said M. W. the daughter of the said Testator, departed this life on or, &c. having,

having, in pursuance of the aforesaid order, received the interest and dividends of the said sum of £ until the time of her death.

That your petitioners, M. G., R. R., &c. having respectively attained their ages of twenty-one years, are, as they are advised, entitled each to one tenth share of the said sum of £ , 3 per cent. &c. without prejudice to their interests in the said suit. And your petitioners, J. W. E. W. &c. the only other children of the said M. W. being still infants, your petitioner, W. W., the elder, is entitled to have the interests and dividends of their respective tenth shares of the said sum of £ stock paid to your said petitioner, for their respective maintenance and education, until they shall severally attain their ages of twenty-one years.

That your petitioner, M. G. attained her age of twenty-one years on the, &c. and hath survived her late husband, the said Plaintiff, Z. G.

That your petitioner, R. R. attained her age of twenty-one years, on the, &c. a short time previous to which she intermarried with your petitioner, E. R., and that no settlement of the interest of your petitioner, R. R. in the said sum of stock, hath been made. And your petitioner is desirous that her one-tenth share of the said stock may be transferred to your petitioner, E. R.

That your petitioner, J. D. W. attained his age of twenty-one years on or about, &c.

Your petitioners therefore humbly pray your Honor that the sum of £ , being one-tenth part or share of the said sum of £ , 3 per cent. &c. may be transferred to your petitioner, M. G. and that the like sum of £ may be transferred to your petitioner, and that the like sum of £ may be transferred to your petitioner, J. D. W. And that your said petitioners may be paid one-tenth part or share of the dividends which shall accrue due on the said stock previous to such transfers. And that your petitioner, W. W., the elder, may, from time to time, be paid the dividends of the said remaining shares of the said sum of stock, so long as your other petitioners respectively shall continue infants, to be by him applied for their several maintenance and education; or that your petitioners may have such further and other relief as the nature of the case may appear to require, and to your Honor shall seem meet. And your petitioners, &c.

Opinion.—There must be affidavits of the petitioners being the only children of M. W. of the three petitioners having attained their ages of twenty-one, of the death of the said M. W., of the death of the said Z. G., and of the marriage of R. R., and that the petitioner, W. W. the elder, is not of ability to maintain the children; and R. R. must be present in Court, and pray that the stock may be transferred to her husband. The suit is abated, and there may be differences made about the petition; but being for the payment of money, it may be hazarded. The Defendants must be served with the petition.

Petition by Creditors for leave to come in and prove their Debts after the Time limited by the Court had expired, stating they had not seen the Advertisements.

Between A. T. widow, &c. Plaintiff,
and

W. H., &c. Defendant.

To the Right Hon. the Master of the Rolls.

The humble petition of J. K., C. D., E. F., and G. H.

SHEWETH,

That upon the hearing of this cause before your Honor, on or about the, &c. it was, amongst other things, ordered and decreed, that it should be referred, &c. (the usual decree for creditors to come in and prove their debts, by a day limited by the advertisements.)

That the said Master made his report, bearing date the, &c. which stands absolutely confirmed, and thereby, amongst other things, certified that, &c. (being the amount of the debts which had been proved.)

That all the debts so reported due by the said Master, together with some other debts which have since been claimed, have been fully paid and satisfied, and there now remains in the hands of the Accountant-General of this honorable Court, the sum of £ , being the residue of the said sum of £ , directed by the decree to be applied in payment of the said Testator's debts.

That, at the death of the said Testator, there was due from him to J. J. of, &c. the sum of £ for board and lodging, and, on his acceptances of two bills of exchange, and such debts now remain wholly due and unsatisfied.

That the said J. J. hath since departed this life, having first duly made and published her last will in writing, and thereby appointed one J. C., since deceased, and your petitioner, J. K., the executor and executrix thereof, and your petitioner, having duly proved the said will of the said J. J. in the proper Ecclesiastical Court, is now the legal personal representative of the said J. J.

That, at the death of the said Testator, there was due from him to your petitioner, C. D., of, &c. the sum of £ , which now remains wholly due and unsatisfied.

That, at the death, &c. (*state each preceding creditor in the same manner.*)

That your petitioners, having been severally unapprised of the said advertisements, published by the Master for the creditors of the said Testator, to come in before him and prove their debts, had no opportunity to claim the same before the said Master made his report.

Your petitioners therefore humbly pray that they may severally be at liberty to come in before the said Master and prove their said debts, and that they may be paid the same out of the said sum of £ now in the hands of the Accountant-General of this Court, in trust in this cause, your petitioners hereby offering to contribute to the Plaintiff their proportions of the expenses of this suit. And your petitioners shall ever pray, &c.

Opinion.

Opinion.—It will be necessary for the petitioner K. to prove before the Master, the fact of the lodging and boarding of the Testator at the house of Mrs. J. by the affidavit of some persons who can speak to it, and evidence must also be given, as to the non-payment of the two bills of exchange.

To support the petition, the petitioners must join in an affidavit to the effect of it.

Petition for a Ne exeat regno, to prevent the Husband from going beyond Sea, until he has settled Alimony on his Wife, stating an Appeal to the High Court of Delegates, and Excommunication.

That on or about, &c. your petitioner intermarried with the said Defendant C. S. and that having been treated with great unkindness and cruelty by the said C. S. she was compelled in the year to institute a suit of divorce against him, for cruelty and adultery, in the court of the dean and chapter of Y.

That the said C. S. appeared to such suit, and entered a protest thereto, which protest was afterwards over-ruled, and the proctor of the said C. S. was assigned to appear absolutely in the month of .

That the said C. S. appealed from such sentence, to the Consistory Court of Y. and in the month of the judge of that court dismissed the said C. S. therefrom, and your petitioner thereupon appealed from such last-mentioned sentence to the high court of delegates.

That the said appeal of your petitioner came on to be heard before the high court of delegates in the month of , when the said court was pleased to assign the proctor for the said C. S. to appear absolutely, and condemn the said C. S. in costs.

That the costs to be paid by the said C. S. in pursuance of the said sentence of the said court of delegates, have been regularly taxed and settled at the sum of £ , and that a monition hath been granted under the seal of the court of delegates, to compel the said C. S. to pay the said sum to your petitioner, or her proctor, with which monition the said C. S. hath been duly served.

That since the said decision of the court of delegates, your petitioner hath been, and now is proceeding in the said suit, so instituted by her as aforesaid, in the court of the dean and chapter of Y. for a divorce against the said C. S. for cruelty and adultery, and hath not yet obtained any sentence for alimony therein, and the said C. S. in order to defeat your petitioner of alimony in such suit, and also to avoid the payment of the costs in which he was condemned in the court of delegates, as aforesaid, threatens and intends, that when and so soon as he shall be excommunicated, which will be the next proceeding to enforce his obedience to the said order of the court of delegates, he will make over his property to his son, and quit the kingdom, and the said C. S. declares, that your petitioner shall never have any thing which he can deprive her of.

That your petitioner hath by the said her next friend, filed her

her bill in this honorable Court, against the said C. S. stating the matters aforesaid, as by the certificate of the six-clerk will appear.

Your petitioner therefore most humbly prays your Lordship, that a writ of *ne exeat regno* may be awarded against the said C. S. or, that your petitioner may have such further and other relief in the premises, as the nature of the case may appear to require, and your Lordship shall seem meet. And your petitioner shall ever pray, &c.

Petition to be discharged from the Fleet.

(State a former petition by the members of a club to have stock transferred into the sold name of their trustee, as far as is necessary.)

That by an order made in pursuance of the said petition, bearing date, &c. it was ordered, that, &c. (*state order.*)

That your petitioner having neglected to comply with the aforesaid order, it was, by another order, bearing date, &c. (*state it.*)

That your petitioner not being able to transfer the said several sums of stock, and pay the dividends due thereon within the time limited by the said last-mentioned order, was, on or about, &c. committed to his majesty's prison of the *Fleet*, and now remains there.

That your petitioner hath since transferred the said two several sums of £ into the name of the said L. F. alone, and hath also paid the dividends due on the said respective annuities to the said L. F. in trust for the benefit of the said society, in obedience to the order aforesaid, and the said (being the former petitioners) on behalf of themselves, and the rest of the members of the said society do consent to your petitioner's discharge.

Your petitioners therefore humbly pray your Honor, that he may be discharged out of the custody of the warden of the *Fleet*, paying his fees. And your, &c.

Opinion.—I rather think, that if the clerk in court for the former petitioners, signed at the bottom of this petition, a memorandum of consent to the discharge of Mr. N. that the Master of the Rolls will make an order, as of course, for his discharge, without any hearing of the petition.

Petition of Appeal.

The humble petition and appeal of B. S., R. P. and R. K., esq. and J. C. clerk, the above named Plaintiff.

SHEWETH,

That your petitioners exhibited their bill of complaint, in or as of term , against the above-named Defendants M. P. widow,
H. L.

H. L., J. L., &c. &c. stating as is therein mentioned, and thereby praying, that, &c. (*set out prayer*). (Petitioners may be declared entitled to the sum of £ , referred to the Master, to compute interest on £ accountant-general may pay said sum of £ in part satisfaction of account, may be declared entitled to the sum of £ &c.)

That the Defendant J. B. as the personal representative of the said T. B. and the Defendants J. L. &c. as the representatives of the said P. W. by their answers to the said bill, resisted the right of your petitioners to be paid the said £ or any part thereof, by them the said Defendants, out of the estates of the said T. B. and P. W. respectively.

That the said cause came on to be heard before the right honorable the Master of the Rolls, on the, &c. when his Honor was pleased to order, among other things, that your petitioner's bill, as against the said Defendants J. B., &c. should stand dismissed out of this Court, without costs, and the decree has been duly passed and entered.

That your petitioners apprehend they are aggrieved by the said decree, for that his Honor hath dismissed their bill as aforesaid, against the said J. B., &c. whereas your petitioners are advised and submit, that the said bill ought not to have been so dismissed, but that, according to the case made by your petitioners at the hearing of the said cause, your petitioners ought to have been declared by the said decree, to be entitled to the relief sought by their bill against the said Defendants J. B., &c. respectively.

Your petitioners therefore appeal from the said decree to your Lordship, and humbly pray of your Lordship, that so much of the said decree as directs that your petitioners bill, as against the said Defendants J. B., &c. be dismissed, may be reserved, and that your petitioners may be declared to be entitled to relief against the said Defendants J. B., &c. in the manner sought by their said bill, or that your Lordship will make such further or other order touching the premises, as shall be right.

The certificate of the two counsels.

We humbly conceive it to be fit,
that the said cause should be
reheard before your Lordship.

A. B., C. B.

SECT. II.—INTERROGATORIES.

THE mode of examining witnesses in equity, is by written interrogatories exhibited by the party, Plaintiff or Defendant, or directed by the court to be proposed to, and asked of, the witnesses in a cause touching the merits thereof, or some incident therein. Also interrogatories may be necessary touching contempts of writs, processes, and orders of court, whereupon the party offending is to be examined concerning such contempt, &c.

Little can be said upon this branch of pleading, which is not to be found in every book of practice. And as little can be said of the frame and form by which they are to be drawn, except that all interrogatories must be short and pertinent, and necessarily to the point. They must not be leading, as, "*did you not do, or see such a thing? &c.*" If they are such, the deposition taken thereon will be suppressed; and so it is, where the interrogatories are too particular, or point to one side of the question more than the other.

The interrogatories which follow, will be found quite sufficient for the Chancery draftsman, and the best way for him to gain an ease in forming them, will be, by an attentive perusal of these which are proffered to his notice.

To prove Goods sold and delivered, and Money lent,

Interrogatories to be administered to witnesses to be produced, sworn, and examined, in a certain cause now pending, and at issue, in his majesty's High Court of Chancery at W. wherein H. H., J. A. and J. S. are Complainants, and J. S., and R. P. are Defendants.

On the part and behalf of the said Complainants.

Inquiry as to the knowledge of parties.

1st Interrogatory. Do you know the parties Complainants and Defendants, in the title of these interrogatories named, or any, and which of them, and how long have you known them, or any, and which of them respectively? Declare the truth of the several matters by this interrogatory inquired after, according to the best of your knowledge, remembrance, and belief.

As to goods sold and delivered.

2d. Do you know of any goods having been at any time, previous to the month of , sold or delivered by the said Complainant H. H. or by the said Complainant J. A. to the said Defendant R. P.? If yea, set forth what goods were so sold and delivered by the said Complainants H. H. and J. A., or either and which of them, to the said R. P. and what was the value thereof, and at what time or times in particular the same were delivered to the said R. P. and how and by what means in particular you are acquainted with the several matters aforesaid. Declare, &c.

As to money advanced and lent.

3d. Do you know of any money having been at any time previous to the month of , lent or advanced by the said Complainant H. H. or by the said Complainant J. S. to the said Defendant R. P.? If yea, set forth what sums of money respectively were so lent and advanced by the said Complainants H. H. and J. S. or either, and which of them, to the said R. P. and at what time or times in particular, the same and each of them were so lent and advanced, and how and by what means in particular are you acquainted with the several matters aforesaid. Declare, &c.

Lastly. Do you know of any other matter or thing that may tend to the benefit and advantage of the Complainant in this cause? If yea, declare the same as fully as if you had been thereunto particularly interrogated.

Observation.—The title of the interrogatories must be prefixed at the top of the sheet as above; the first interrogatory generally contains an inquiry of the witness, if he knows the parties in the cause, and it is usual to add a concluding interrogatory, if the witness knows any thing which may tend to the benefit of the party, for whom he is examined.

Interrogatories

Interrogatories to prove Books of Account.

Interrogatories exhibited before, &c. (the usual title before a master.)

THE CASE.

G. G. the late husband of Plaintiff, was agent to D. Defendant's husband in L. and as D. made remittances to G. who paid money for D. in the capacity of agent, an account was opened between them. G. died. The person to whom these interrogatories were administered, was employed after G.'s death, to settle the accounts between him and D., afterwards D. died. The Plaintiff brought her bill, praying an account, and alledging, that a sum of money remained due to her from the estate of D:

1st. [Knowledge of the parties.]

2d. Was you or not, ever, and when, employed by any, and what person or persons, and whom by name, to make out any account of dealings and transactions between the said G. G. and T. D. in their respective life-times? And if yea, when did you receive from the Plaintiff any books, papers, or writings, for such purpose, and particularly, whether or not any and what books or book which were, or was, or appeared to have been kept by, or for the said G. G. in his life-time, for the purpose of making entries of any and what kind, relating to dealings between him and the said T. D.? Look upon the books produced, &c. Were, or was the same, or either, and which of them, ever, and when, delivered unto you, by, or on behalf of the Plaintiff, for such purpose, or on such occasion, or for what other purpose, or on what other occasion, and what do the same respectively purport to be? Declare, &c.

3d. Did you or not ever, and when, or about what time, in any, and what manner, apply to the said T. D. to deliver or send up to you, or furnish you with any books or book of account, papers or paper, matters or things, for or towards enabling you to make out, or assisting you to make out the account of dealings and transactions between the said G. G. and T. D. and did not the said T. D. ever, and when, or in what manner, deliver, or send unto you, any, and what books or book of account, papers, or writings, for such purpose, or in consequence of such application? Look on the books, papers,

papers, and writings, &c. were, or was the same, or any, or either, and which of them, delivered or sent unto you by the said T. D. on such occasion, or for such purposes, and what do the same produced books, papers, and writings, respectively purport to be? Declare, &c.

4th. Did you not ever, and when, draw out any account in writing, of or concerning dealings or transactions of all, or any, and what kind, which were had, or possessed between the said G. G. and T. D. for any, and how long time or times, and from and to what times did you not, previous to, or in order to the drawing out such account, carefully, or otherwise, and how, examine, inspect, or peruse, all, or any, and which of the books, papers, or writings, which were delivered or sent unto you, for such purpose, by, or on behalf of the Plaintiff, and the said T. D. respectively, or by, or on behalf of either, and which of them? Look upon the books or writings, &c. Are, or is, the same, or not, the accounts which, if any, was so drawn out by you, or a true copy thereof? Doth the said book or paper, marked, &c. contain a just and true account of all dealings and transactions between the said G. G. and T. D. for the time for which the same appears to be an account, or are there any, and what, errors, omissions, or false charges therein, and for what reason, point all such errors, omissions, and false charges, and how the same happened therein? Declare, &c.

5th. Whether or no, was a copy of the account which, if any, was drawn out by you, as is enquired after in the fourth interrogatory, at, or about any, and what time, delivered or sent, and by whom, unto the said T. D.? Was the same or not, a true copy of the said book or writing, &c. or did the copy, which, if any, was so sent or delivered, in any, and what respect, differ or vary from the said produced books or writings marked, &c.? Declare, &c.

6th. Whether or not, were any meetings had, and how many in number, between you and the said T. D. for, or in order to the settling, examining, or considering of the said accounts, which, if any, was drawn out by you, as is inquired after in the fourth interrogatory? If yea, when, or about what time, and where were such meetings had, and how long were you and he together at each of such times? Did, or not, the said T. D. at all, or any, and which of such meetings, with any, and what degree of care, or attention, or otherwise, and how, examine the whole, or any, and what part of such accounts, and all, or any, and which of the articles therein; and were or not any, and what books, papers, or writings, inspected or examined by him and you, or one, and which of you, at such meetings, or either, and which

which of them? Set forth what passed between you and the said T. D. at such meeting, touching the setting, or adjusting, inspecting, or examining of the said accounts, or in any manner relating to the several items or charges therein; and how the said T. D. at such respective meetings, expressed himself relating thereto. Did, or did not the said T. D. at any, and which of such meetings, or at any, and what other time, in any, and what manner, acknowledge or allow the said account, or any, and what particulars thereof to be just and true; and did he not finally make any, and what objections thereto, or to any, and what articles, matters, or things in his favor, and to what amount?

7th. Whether or no did you at any, and which of the meetings between you and the said T. D. which are inquired after in the sixth interrogatory, produce, or shew unto the said T. D. all, or any, and which of the said acknowledgements, or writings, to which his name appears to be subscribed, and which are written, or contained respectively in the folio of the said produced book, marked ? Did, or not the said T. D. ever, and when, and on what occasion, and in what manner say, or declare any thing, and what, unto you, or unto any, and what person or persons in your hearing or presence, purporting, that he had, or had not signed all, or any, and which of such acknowledgements or writings; or that his name subscribed thereto, or to any, or either, and which of them was of his own hand writing, or to such, or the like effect? Set forth how he at such time or times expressed or declared himself relating thereto. Declare, &c.

8th. Whether or no did the said G. G. in the course of the dealings and transactions between him and the said T. D. frequently, or how often, for any, and how long time, receive from the said T. D. drafts or bills of exchange for money, and to what amount yearly, for the purpose of the said G. G. receiving the money payable thereby, or for what other purpose? And whether, or not, also for the purpose of the said G. G.'s paying all or part of the money, so received, to any other person or persons on account of the said T. D.; did it or not appear to you, on drawing out the accounts between the said G. G. and T. D. that it was reasonable that any, and what sum of money should be allowed by the said T. D. and on what ground, unto the said G. G. or his representatives, or estate, as, or by way of commission of receiving the money, on, or by virtue of such bills or drafts, was, or were not, any, and what sums of money, charged in the accounts drawn out by you as aforesaid, for such commission, and whether, or not, for postage of letters? Had you not, ever, and when, any discourse or conversation with the said
T. D.,

T. D., with regard to his making any, and what allowance to the estate or representative of the said G. G. for such commission and postage of letters, or on either, and which of such accounts? If yea, what answer did the said T. D. make, or how did he express or declare himself relating to such matters or things, or either, and which of them? Declare, &c.
Lastly.

Interrogatories to prove an Agreement.

In Chancery.

Interrogatories to be administered to witnesses, &c. wherein I. D. is Complainant,
and

I. D. and T. R. C. are Defendants.

On the part and behalf of the Complainant as follows :

To prove agreement by subscribing witness, if not by some person who knows D.'s hand-writing.

To prove the letter, dated, &c. by the same witness who is examined on the 2d interrogatory.

To prove offer of money to Defendant D., by the examination of Mr. E.

1st. [Knowledge of parties.]

2d. Look upon the paper-writing, now produced and shewn to you, at this the time of your examination, marked with the letter A. Whether or no are you by any, and what means acquainted with the character and manner of hand-writing of the Defendant I. D.? And whether or no is the name I. D., appearing to be set and subscribed to the said produced paper-writing, of the proper hand-writing of the said Defendant I. D., as you know or believe? Declare, &c.

3d. Look upon the letter, or paper-writing, now produced and shewn to you, at this the time of your examination, marked with the letter B, and the superscription or direction thereof. Whether or no are you by any, and what means acquainted with the character and manner of hand-writing of the said Defendant I. D.? And whether or no is the body of the said letter, or paper-writing, and the name I. D., appearing to be set and subscribed thereto, and the superscription or direction of the said letter, or either, and which of them of the proper hand-writing of the said Defendant I. D., as you know or believe? Declare, &c.

4th. Whether or no was you, at any time in the year , and when, and where, present with the said Complainant and the said Defendant I. D. when any conversation passed between them respecting the public-house called the , at E., in the occupation of the said Complainant, and any agreement relating thereto? If yea, set forth the particulars of such conversation, and what was said therein by the said parties respectively, and whether the said Complainant then offered to pay any, and what sum of money to the said Defendant I. D.? Set forth, &c.

To

To examine the solicitors of Defendant R. C., who contracted for the purchase, as to their knowledge of Plaintiff's agreement.

5th. Whether or no did you, at any time, and when, treat with, or enter into any agreement with the said Defendant I. D. for the sale by him of the public-house at E., in the pleadings of this cause mentioned, to the Defendant T. R. C.? If yea, when, and by whom, were you employed to enter into such treaty and agreement, and when, and from whom, respectively, did you receive all and every your instructions or directions as to such treaty or agreement? And in particular did you ever, and when, receive any instructions or directions respecting such agreement from D. W. and W. H., the partners of the said Defendant T. R. C., or either, and which of them? And whether, or no, pending such treaty, or after the said agreement was concluded, and before the purchase-money was paid by the said Defendant T. R. C., pursuant to such agreement, did you know, or believe, or had you any intimation that the agreement, in the pleadings in this cause set forth, or any agreement had been entered into between the said Complainant and the said Defendant I. D., as to the sale of the said public-house, called the _____, by the said I. D. to the said Complainant; and when, and from whom, and upon what grounds did you know or believe the same, or when, and from whom, did you receive such intimation? And did you, at any time, and when, before the said agreement was concluded, or before the said purchase-money was paid by the said Defendant T. R. C., inform the said Defendant of such your knowledge or belief, or of such intimation, and if not, why? Set forth, &c.

To examine the partners of T. R. C., and prove agency between them.

[This interrogatory, and the rest, are very strictly drawn, being unwilling witnesses.]

6th. Whether or no did you ever, and when, treat or agree with the Defendant I. D. for the sale by him of the public-house at E., in the pleadings of this cause mentioned, to the Defendant T. R. C., or employ any person or persons, and whom, in any such treaty or agreement; or did you ever, and when, and to whom, give any, and what, instructions or directions as to such treaty or agreement? And whether or no did you so treat or agree with the said Defendant I. D., or so employ such person or persons in such treaty or agreement, or give such instructions or directions as to such treaty or agreement by the previous authority of the said T. R. C., or with his privity or approbation; or did he, after you had so treated or agreed, or so employed such person or persons, or given such directions or instructions, know and approve of the same, or how otherwise? And whether or no pending the treaty with the said Defendant I. D. for the sale of the said public-house to the said Defendant T. R. C., or after the agreement for such sale was concluded, and before the purchase-money was paid by the said T. R. C., pur-

To prove a conversation between Plaintiff and one of the partners of Defendant T. R. C.

For the examination of the same partners as to their borrowing the Plaintiff's agreement, and the conversation that passed thereon.

suant to such agreement, &c.? (as the concluding part of the former interrogatory.) Set forth, &c.

7th. Whether or no did you, on any day, and when in particular, in or about the month of _____, dine in company with the said Complainant at the public-house at B.? And whether or no did the said Complainant then say to you, or to any other person, and whom, in your presence or hearing, that he had made any agreement for the purchase of the public-house, called the _____, at E., in which he lived, or to any such, and what effect? And whether or no was the agreement between the Defendants I. D. and T. R. C. as to the sale of the said house then concluded, or had the said T. R. C. then paid his purchase-money for the said house to the said I. D. as you know or believe? And whether or no did you mention, or give any intimation, to the said T. R. C. of what the said Complainant had then said, before the said agreement was concluded between the said Defendants I. D. and T. R. C., or before the said purchase-money was paid by the said T. R. C., and if not, why? Set forth, &c.

8th. Whether or no did you ever, and when, and how often, and at what particular times, in or about the month of _____, and whether alone, or in company with any other person, and whom, call at the house of the said Complainant, and ask to look at the agreement which he had entered into for the purchase of his house, or to any such, and what effect? Or have you had any other, and what conversation with the said Complainant respecting any such agreement? And whether or no did you, or any other person, and whom, in your presence, at any, and which of such times, see the said agreement? And whether or no did you, or any other person, and whom, in your presence, at any, and which of such times, desire to take the said agreement away, and alledge any, and what reason for so doing, or actually take the said agreement away, and alledge any, and what reason for so doing? And for how long did you, or such other person, keep such agreement, and for what reason? And when did you, or such other person, return the same to the said Complainant? And whether or no did you, or such other person, when the said agreement was so returned to the said Complainant, make any, and what declaration as to the value that the said agreement would be of to the said Complainant, if he knew how to use the same, or to any such, or any other, and what effect? And whether or no, when you first called at the house of the said Complainant as aforesaid, and had any conversation with the said Complainant respecting any such agreement

ment as aforesaid, or when you, or such other person, took away such agreement as aforesaid, had the treaty for the purchase of the said public-house, called the , by the said Defendant T. R. C. been entered into with the said Defendant I. D.? Or if entered into had the same been concluded, or if concluded, had the purchase-money for the said house been paid by the said T. R. C., as you know or believe? Set forth the particulars at large according to the best of your knowledge, remembrance, and belief, and the truth declare.
[Last and usual interrogatory.]

*Interrogatories to prove the Sale of an Estate by Auction,
which was purchased by an Agent.*

In Chancery.

Between W. . . . Plaintiff,
and
J. . . . Defendant.

Interrogatories to be administered, &c.

1st. [Knowledge of parties.]

2d. Whether or no were you employed, on, &c. as auctioneer, at the sale of a certain copyhold estate which had belonged to the late S. C., late of, &c. imholder? If yea, in how many lots was the estate sold, and who was the purchaser at such sale of lots and , and at what prices? Look upon the printed paper, now, &c. marked with the letter M. Whether or no is the same one of the copies of the particular and condition of the said sale; and were the said lots and purchased subject to such particular and condition? And if yea, what was the amount of half the auction duty on the said lots and ; and what was the appraised value of the fixtures which were to be taken by the purchaser of lot , and at what sum was the timber on lot valued? Set forth, &c.

3d. Whether or no were you, at any time or times, and when after, &c. present at any conversation or conversations between the said Complainant and the said Defendant, as to whom the said Complainant was to consider as the purchaser of lots and , part of the estate of the late S. C., being the premises in the pleadings in this cause mentioned? If yea, set forth all and every the particulars of such conversation or conversations, and what was said therein both by the said Complainant and the said Defendant respectively; and when, and where, and in whose presence and hearing, and upon what occasion or occasions, all and every

every such conversation or conversations took place ?
Set forth, &c.

4th. Whether or no were you present when the said Complainant delivered to Mr. K. the possession of the premises, in the pleadings in this cause mentioned ? If yea, set forth the particulars of what passed upon that occasion, and what was said thereupon by the said Complainant to the said Mr. K. Set forth, &c.

5th. Whether or no were you, at any time present, when the said Defendant made any application or request to the said Complainant, to give him time to pay the purchase-money of the premises, in the pleadings mentioned ? If yea, set forth the particulars of such application and request, and when the same was made ; and whether or no, after the said Mr. K. was in possession of the said premises. Set forth, &c.

6th. Whether or no did you ever, and when, hear the said Mr. K. make any, and what declaration, and to whom, as to his having or not employed the said Defendant to purchase for him, of the said Complainant, the premises in the pleadings in this cause mentioned ? Set forth, &c.

Lastly. Do you know of any other matter or thing, &c.

Interrogatories to prove Misrepresentation upon the Sale of an Estate as to the Right of Free-bench.

In Chancery.

Interrogatories to be administered, &c. (*the usual title.*)

On the part and behalf of the Complainant, as follows :

To prove instructions given to a person with respect to the widows' rights.

1st. [Knowledge of the parties.]

2d. Whether or no was you, in and before the month of _____, employed by the Defendant lord A., in any and what capacity, as to the manor of K. in the county of S. and the messuages, &c. of the said Defendant, in the parish of K. and whether or no had you, in and before the said month of _____, and when, any, and what instructions, from the said Defendant lord A. or from any person or persons, and whom, as his agent or agents, on his behalf, to shew the said manor, and the said estates of the said lord A. in the parish, to persons who should desire to view the same, previous to the intended sale thereof ; and whether or no had you then, or at any other time, and when, any and what instructions from the said Defendant lord A. or from any person or persons, and whom, as his agent or agents, or on his behalf, as to the customary rights of widows in the copyhold estates of the said manor of K. or as to the information

information that you was to give respecting such customary right of widows to persons who should apply to view the said manor and estates previous to the said intended sale? Declare, &c.

As to information given to Plaintiff.

3d. Whether or no did the said Complainant, at any time, and when, apply to you, as the agent of the Defendant lord A. to view the said manor and estates of K. and whether or no did the said Complainant, at any time, and when, make any, and what inquiry of you, as to the customary rights of widows in the copyhold estates of the said manor; and what information did you thereupon give to the said Complainant, with respect thereto? And whether or no did the said Complainant make any, and what enquiry, of you, as to the widowhood, or the copyhold land, which the said manor of which one G. S. was tenant, and what answer did you give to such inquiry? And whether or no did you state, that you had orders from any person, and whom, to take possession of the said land, upon the death of any person, and whom? And did you say any thing, and what, as to the state of health of such person? Set forth, &c. *

As to the refusal to deliver up land upon the death of a person.

4th. Whether or no did you know R. H. the renewing life, in the copy of the said land of which the said G. S. was tenant? And when did the said R. H. as you know, or for any, and what reason believe? Whether or no did you, upon the death of the said R. H., and when, give any, and what information, to the said Complainant, and for what reason? And whether or no did you, and when, after the death of the said R. H., and by whose instruction, and on whose behalf, apply to the said G. S. to deliver up the possession of the said land, and for what reason did the said G. S. refuse to deliver up such possession? And is the widow of the said R. H. now living, and what is her age, and what is her state of health; and what is the annual value of the said land? Set forth, &c.

As to what passed at the sale, as to the declaration of selling that estate as it was.

5th. Whether or no was you present at G.'s coffee-house, in the city of L. on the day of , at and before the sale of the manor and lands of L. in the pleadings in this cause mentioned? Whether or no was it proposed by any person, and whom, and on whose part, to add any, and what condition, to the particulars of sale, with respect to any life upon the said estates, which might drop before the completion of the purchase, and what passed thereupon, and between whom, and what was settled and declared, and by whom, with respect thereto; and whether or no was there, at or previous to the said sale, any declarations made, and by whom, "that it was to be understood by all persons who chose to bid for the estate, that the sale should proceed

As to what passed at the sale, with respect to the right of widowhood.

proceed in the manner most disadvantageous to the interest of the seller, with respect to a widow's right," or to any such, and what effect? Set forth, &c.

6th. Whether or no did the auctioneer, previous to the biddings at the said sale, make any and what observations as to the custom of the said manor of K. with respect to widowhood, and what passed thereupon; and whether or no did the said Complainant then make any, and what enquiry, and of whom, as to such right of widowhood, and any and what inquiry, as to the widowhood, or any and what particular parcel of land within the said manor, and what answers did the said Complainant receive to such inquiries, and from whom, and what declarations were thereupon made, and by whom, as to the customary rights of widows within the said manors, or as to the right of widowhood, in any and what particular parcels of land within the said manor; and whether or no did any person, and whom, and by whose direction, write any thing, and what, upon one of the printed particulars of sale, against any and what parcel of land described therein? And did any person, and whom, afterwards, deliver to you, and in what character, and for what reason, the said printed particular of sale, which was so written upon? Look upon the paper now produced by or to you at this the time of your examination, marked with the letter A. Whether is the said produced paper the printed particular which was so written upon and delivered to you as aforesaid, of whose hand-writing are the following written words, in the said produced paper—"The widowhood has been enjoyed as you know, or for any, and what reason, believe? Set forth, &c.

For the examination of a witness to prove whose hand-writing the words are, "The widowhood has been enjoyed."

To prove copies of all the entries in the court rolls respecting the right of widowhood.

7th. Look upon the paper now produced to you at this the time of your examination, marked with the letter A. Of whose hand-writing are the following written words, in such paper—"The widowhood has been enjoyed," as you know or believe? And have you seen such person write, or by what other means are you acquainted with his character and manner of hand-writing? Declare, &c.

8th. Look upon the paper-writings now produced and shewn unto you at this the time of your examination, marked with the letter B., &c. (*add as many letters as there are entries*). Whether or no did you, at any time, and when, and where, examine the same with any entries thereof, made in any and what court rolls of the manor of K., in the pleadings in this cause mentioned; and whether or no are the same true copies of such entries? Declare, &c.

9th. Have

*To prove the
reputed custom
of the manor as
to widowhoods.*

9th. Have you, for any time, and how long, known the manor of K. in the county of S., in the pleadings in this cause mentioned? What, as you know, and for any and what reason believe, is the custom of the said manor, as to the rights of a widow or widows, upon a grant by copy of lands within the said manor for three lives; and whether or no have you ever heard any thing, and what, as to such custom, from any person or persons, and whom, who are now dead? Set forth, &c.

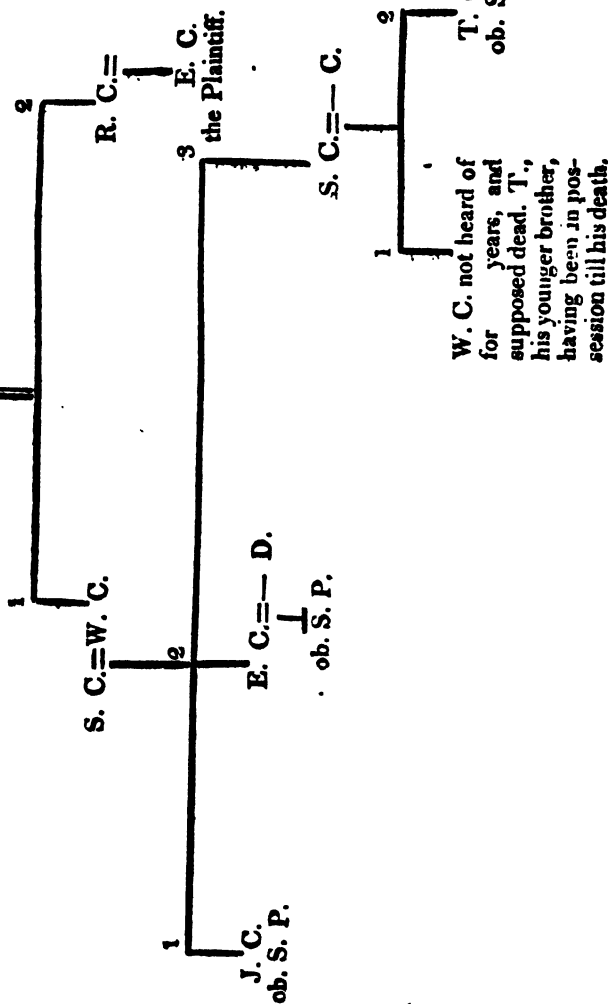
Lastly. [The usual interrogatory.]

Opinion.—It being admitted in the answer of the Defendant lord A., that there are other lands besides No. which may be affected by the question as to the widows' right, it is most adviseable for the Plaintiff to enter into evidence respecting such other lands, but he will be entitled to an enquiry as to the compensation to be made to him with respect to such other lands, if he succeeds in the general question.

In Chancery.

Between E. C. Plaintiff,
and
S. L., T. F., M. M., R. T., O. S., J. S., S. T., and E. B. . . . Defendants.
PEDIGREE OF THE PLAINTIFF.

R. C.



STATEMENT OF THE CASE.

The Plaintiff filed his bill against the Defendants, the five last of which were the tenants, or the representatives of tenants, in possession of the estate in question, and the three first were mortgagees, or had some claim upon the estate. It appeared by the bill, that M. S. by her will, bearing date the , devised to her kinswoman, S. C. wife of W. C. all her real estate at W. C. for life ; remainder to her son or sons living, in equal shares and proportions ; and she charged the said W. estate after the death of the said S. C. with the payment of £ a-piece to her daughters. And it seems, that by the general rule, and the authorities upon the subject, that on account of the charge on J. to pay the legacies of £ , that he took, upon the death of his mother, the W. estate in fee, notwithstanding the want of words of limitation to the heirs. The bill was for a redemption of the said estate, and for the usual accounts to be taken. Upon the coming in of the answers, it appeared that L. and M. had assigned over all their interest to the Defendant F. and he admitted that he was a mortgagee in possession for £ but denied Plaintiff's title, and said, he had heard that W. C. the real heir, was alive ; and also stated, that the Plaintiff had contracted to sell his equity of redemption, as was the fact. The Plaintiff, however, afterwards obtained a regular release of such contract. The pleadings were submitted to Mr. L. to advise as to further proceedings, and he gave the following opinion :—

“ It appears to me, upon these pleadings, that Mr. F. is the only one
 “ of the Defendants who is a necessary or proper party to the suit. And
 “ if the suit be proceeded in, I think the bill ought to be dismissed, as
 “ against all the other Defendants. But before the Plaintiff takes upon
 “ himself the expense of dismissing this suit, he ought to be quite sure
 “ that he can make out his own title. It no where appears by whom the
 “ original mortgage of £ was made ; but by whomsoever it was
 “ made, the Plaintiff has to make out a clear descent and title from that
 “ person, and he ought to be quite sure, therefore, not only that he can
 “ make out his own pedigree, but that he can prove all other persons
 “ who would stand in his way to be dead without issue, and intestate. It
 “ seems, by Mr. F.'s answer, that the Plaintiff has entered into some
 “ written contract with S. and R. for the sale of his equity of redemption.
 “ If this be so, the circumstances must be inquired into accurately, be-
 “ cause it may turn out that the Plaintiff has fully passed all his interest
 “ in the said suit, or at least that it may be necessary to make these per-
 “ sons parties to the suit. It is very material to ascertain by whom the
 “ original mortgage was made. As part of the property is copyhold, it
 “ might be known by searching the court rolls of the manor.”

The following are the Interrogatories to prove Plaintiff's Title,

In Chancery.

Interrogatories to be exhibited to witnesses to be produced, sworn, and examined in a certain cause depending in the high Court of Chancery, wherein E. C. is . Complainant,
and

S. L., &c. &c. . . . Defendants.

On the part and behalf of the Complainant as follows.

1st. Interrogatory. Do you know the parties Complainant and Defendants, in the title of these interrogatories named, or any, or either, and which of them? And how long have you known them, or any, or either, and which of them respectively? Declare the truth, and your knowledge therein.

For the executors of Plaintiff's mother, and any other person who can speak with accuracy as to pedigree.

2d. Whether or no did you know M. S. formerly of, &c. and when, or about what time, did the said M. S. die? And whether or no did you know W. C. formerly of, &c. and S. C. his wife; and was the said S. C. in any manner, and how, related to the said M. S.; and when, or about what time, and where did she die; and what children had the said S. C.; and what children survived her; and if any child or children of the said S. C. died in her life-time; did such child or children have any child or children; and what are become thereof? And whether or no did you know J. C. of, &c. the son of the said S. C. and S. C. the younger, and E. C. the daughters of the said S. C. and did the said S. C. ever, and when, marry; and when, and where did he die; and whether testate or intestate; and had he, or did he leave any child or children? And if yea, what are become thereof? And did the said S. C. the daughter of the said S. C. ever, and when, marry, and to whom, and when, and where did she die; and what children had she, or did she leave? And whether or no did you know W. C. and T. C. sons of the said S. C. the younger, and what became of the said W. C.; and did he ever, and when, marry, as you know or believe; and did the said T. C. ever, and when marry, and where, and when, or about what time did he die, and whether testate or intestate; and had he, or did he leave any child or children? And if yea, what are become thereof? And did the said E. C. the daughter of the said S. C. the elder, and ever, and when, marry, and to whom; and when, or about what time did she die;

die; and had she, and did she leave any child or children? And if yea, what are become thereof? Whether or no did you know the father of the said W. C. of, &c. the husband of the said S. C. the elder; and what was his name, and where did he live, and when, or about what time, and where did he die; and what child or children had he besides the said W. C. and who was his eldest son, and who was his second son; and did his eldest son, in case the said W. C. was not his eldest, or if the said W. C. was his eldest, did his second son at any time, and when, and where, marry; and when, or where did he die; and had he, or did he leave any, and what child or children? And whether or no is the said Complainant his eldest son, or who else is such eldest son? Set forth the particulars at large, according to the best of your knowledge, remembrance, and belief, and the truth declare.

For the executor of Plaintiff's mother, or any other person who can speak to the fact of possession.

3d. Whether or no was the said W. C. of, &c. and S. his wife, or either, and which of them, at any time, and for how long, in possession or in the receipt of the rents and profits of any messuages, farms, or lands in the parish of, &c. commonly called _____; and by whom are such messuages, farms, and lands now respectively occupied? And whether or no did the said S. C. continue in such possession or receipt until her death, or how otherwise? And whether or no, did J. C. the son of the said W. and S. C. at any time, and when, enter into the possession, or into the receipt of the rents and profits of the said messuages, farms, or lands? And whether or no did he continue in such possession or receipt until his death, or how otherwise? And whether or no did T. C. in the last interrogatory named, at any time, and when, enter into the possession, or into the receipt of the rents and profits of the said messuages, farms, or lands? And whether or no did he continue in such possession or receipt, or how otherwise? Declare, &c.

[Test the fact of possession be not distinctly proved, I would examine to this interrogatory the Defendant L. first obtaining an order for that purpose, saving first exceptions.]

4th. Whether or no was J. C. late of, &c. commonly called _____ yeoman, at any time, and when, in possession, or in receipt of the rents and profits of the freehold and copyhold messuages, lands and tenements which were subject to a mortgage, which formerly belonged to the late A. M., clerk, and afterwards to the Defendant M. M. and now to the Defendant T. F.? And whether or no did he continue in such possession or receipt until his death, and when did he die? And whether or no was the said J. C. ever, and when, married, and to whom, and had he, and did he leave any child or children? And whether or no did he die testate or intestate, and who, upon his death, entered into such possession or receipt? And whether

or

or no was T. C. late of, &c. aforesaid, at any time, and when, in the possession, or in the receipt of the rents and profits of the said freehold and copyhold messuages, lands and tenements? And whether or no did he continue in such possession or receipt until his death, or how otherwise, and when did he die, and was he ever, and when, married, and to whom, and had he, and did he leave any child or children, and did he die testate or intestate? And whether or no was any, and what allotment made to the said T. C. in respect of the said freehold and copyhold lands, or any, and what part thereof, under any act of parliament passed for embanking the common salt-marsh in the township of W. aforesaid, and for inclosing the same? Set forth, &c.

For the proof of the registers of births and burials which support the pedigree.

5th. Look upon the paper writings now produced and shewn to you at this time of your examination, marked respectively with the letters A. B., &c. Whether or no did you at any time and when, and where, carefully examine the same with any entries thereof made in the register books of any, and what parishes or places, and are the same true copies of such entries respectively? Declare, &c.

For the proof of any inscriptions on tomb-stones which support the pedigree.

6th. Look upon the paper-writings now produced and shewn to you at this the time of your examination, marked respectively with the letters F. G., &c. Whether or no did you at any time, and when and where, carefully examine the same with any writings or inscriptions upon any, and what tomb-stones or monuments, in any, and what churches or church-yards? If yea, whether or no are the same true copies of such writings or inscriptions respectively? Declare, &c.

To prove a search in the proper office of wills, of J. C. and T. C.

7th. What is the proper Ecclesiastical office for the probate of wills, of persons dying in the parish of W. St. A. commonly called _____, in the county of N.? Whether or no have you carefully examined such office, for the purpose of finding wills of J. C. late of, &c. who died in or about the year _____, and of T. C. late of, &c. who died in or about the year _____? If yea, have you found any will of the said J. C. or of the said T. C. or either, and which of them; or doth it appear that administration of the goods, chattels, rights and credits of the said J. C. or of the said T. C. was at any time, and when, granted to any person or persons, and to whom? Look upon the paper-writings now produced and shewn to you at this the time of your examination, marked with the letters A. B., &c. whether or no are the same true copies of entries in the register books of the said Ecclesiastical office? Set forth, &c.

To prove the entries of administrations, if any.

Lastly.

Lastly. Do you know of any other matter or thing, or have you heard, or can you say any thing touching the matters in question in this case, that may tend to the benefit and advantage of the Complainant in this cause, besides what you have been interrogated unto? Declare the same fully and at large, as if you had been particularly interrogated thereto.

Observation.—As the Plaintiff's mother states the mortgage to have been made by M. S., I think it more prudent to assume that to have been the fact, than to increase the delay and expense of the suit by an amendment, and by taking the examination of the Plaintiff's mother, *de bene esse*. I therefore recommend the Plaintiff to reply in the suit, and to proceed to put it at issue immediately, and I have drawn all the interrogatories that appear to be necessary for the examination of witnesses. It will be necessary to produce the original will of M. S. at the hearing, and before the hearing to move, that the Defendant F. may produce at the hearing, all the title deeds relating to the premises.

Interrogatories to prove Relationship or Pedigree.

H. Plaintiff,
and
A. Defendant.

*To prove
knowledge of
Testator's
grandfather,
and marriage.*

1st. [Knowledge of the parties.]
2d. Whether or no did you know T. C. late of, &c. the grandfather of Testator T. C. and now deceased, in his life-time, and how long before his death; when or about what time did he die, as you know, or have heard of, or for any, and what reason believe? Was or not the said T. C. ever, and when, married, and to whom, and what was the maiden name of his wife? Declare, &c.

*To prove the
issue.*

3d. Whether or no had the said T. C. in the said preceding interrogatory mentioned and inquired after, any, and what number of children by his said wife, or by any other wife or wives? If yea, what were their respective names? Had he or not children called by the names of I. A. &c. or by one, and which of said names, or by what other names or name? And had he or not, any, and what other children or child, and of what names or name? Declare, &c.

*To prove chil-
dren died with-
out issue.*

4th. Whether or no did you know, or was you acquainted with the said I. A., &c. three of the children of the said T. C. the grandfather, in the preceding interrogatory mentioned and inquired after, or any, and which of them, for any, and how long time, and from, and to what times in particular are they, or not, or
any,

any, and which of them now living, or dead? If dead, when, or about what times or time did they, or any, and which of them severally and respectively die; and did they, or any, and which of them leave any, and what children or child, or issue, and were, or was they, or any, and which of them ever, and when, married as you know, or for any, and what reason believe? Declare, &c.

5th. Whether or no did you know the said T. C. in the third interrogatory mentioned and inquired after, another of the sons of the said T. C. the grandfather, in the second interrogatory mentioned and inquired after, for any, and how long time, and from and to what times? Is he or not, living, or dead; when, or about what time did he die? Declare, &c.

To prove marriage, and their having a daughter of such.

6th. Whether or no was the said I. C. in the preceding interrogatory mentioned, or inquired after, ever, and when, married, and to whom, and what was the maiden name of his wife? Had or not, the said I. C. any, and what children or child, or issue by his said wife, or any other wife, and particularly, had he or not, a daughter, called by the name of A., and had he or not, any other children or child, and of what names or name? Declare, &c.

To prove marriage.

7th. Whether or no did you know, or was you acquainted with the said A. C. in the preceding interrogatory mentioned, or inquired after, for any, and how long time, and from and to what time? Did or not the said A. C. ever, and when intermarry with M. H. late of, &c. and now deceased, and when, and about what time did the said M. H. die? Declare, &c.

To prove Plaintiff's only surviving children.

8th. Whether or no had the said M. H. and A. his wife, heretofore, or late A. C. in the preceding or 7th interrogatory mentioned or inquired after, any, and what number of children? If yea, what were their respective names, or the names of any, and which of them, and particularly, are not the Complainants R. H. &c. or some, or one, and which of them, the children or child of the said M. H. and A. his wife; and had they or not, another son, named I. H. and is he or not living, or dead? If yea, when, and about what time did he die, and did he or not leave any children or child, or issue, and had or not the said A. H. any, and what other children or child, or issue, other than and besides those herein before named? If yea, are they or not, or any, and which of them living, or dead, when, or about what times or time did they, or any, and which of them die, as you know, or for any, and what reason believe? Declare, &c.

9th. To prove copies of registers, &c.

Lastly.

Interrogatories

*Interrogatories to prove the Custom of a Manor.**In the Exchequer.*

Interrogatories to be administered to witnesses to be produced, sworn, and examined, in a certain cause depending in his majesty's Court of Exchequer at W., wherein W. W. is Complainant, and
J. K., &c. are Defendants.

On the part of the Complainant, as follows :

1st. [Knowledge of the parties.]

To prove the entry in the court rolls of the of J. L. his wife, and all other entries, in which it appears that the fine paid, was according to the

custom now contended for.
2d. Look upon the paper-writing now produced and shewn to you at this the time of your examination, marked with the letter A. Did you at any time or times, and when and where, examine the same, with any entries or entry thereof made in the court rolls or court books of the manor of M., in the county of H.; and are or is the same or any, and which of them true copies, or a true copy of such entries or entry? Declare the truth, and your knowledge herein.

To prove hand-writing.

3d. Look upon the paper-writing now produced and shewn to you at this the time of your examination, marked, &c. whether or no were you by any and what means acquainted with the character or manner of hand-writing of B. F. now deceased, but formerly steward of the said manor of M.? And whether or no were the contents of the said paper-writing, or any and what part thereof of the proper hand-writing of the said B. F. or of whose hand-writing or hand-writings are the contents of the said paper, and every part thereof? Declare the truth, and your knowledge therein.

To prove that it has never been pretended in the manor, that the tenants had not a right of renewal; as the modern practice has been to pay an arbitrary fine, the interrogatory is so framed as not to call upon

4th. Whether or no are you by any and what means acquainted with the customs of the manor of M. in the county of H.? Whether or no, in cases where copyholds are holden of the said manor for lives, have the tenants a customary right to exchange any life or lives, or to add any life or lives in the place of those which drop, upon the payment of a fine to the lord? And whether or no did it ever, and when first happen, that the lord or steward of the said manor refused to add or exchange any life upon the application of any such tenant, upon the ground that the said copyholders of the said manor, had no such right to add or exchange lives? And whether or no, upon any copyhold lands so holden for lives of the said manor, have fallen into the hands of the lord, by the death of any customary tenant, has the

the witnesses to speak of the amount of the fine, they must be cautioned to answer the questions put to them, and to say nothing of the amount of the fine.

To prove a declaration that formerly there was a fine certain.

the heir of such tenant, a customary right, upon payment of a fine to the lord to have the same lands re-granted to him for the life of such heir, or one or two other persons; or how otherwise? and whether or no did it ever, and when first happen, that the lord or steward of the said manor, has refused to make such re-grant, upon the application of any such heir, upon the ground that such heir had no such right? Declare, &c.

5th. Whether or no had you at any time, and when, any conversation with W. R., the late lord of the manor of M., respecting the fines payable on the renewals of copyhold estates, holden for lives within the said manor? If yea, set forth the particulars of such conversation, and when and upon what occasion the same passed.

Lastly. [The usual interrogatory.]

Observation.—Upon considering the admissions in the answers of K. and W., who are the acting executors and trustees under the will of Mr. R., I think it unnecessary, notwithstanding that the Defendant W. R. was an infant when he put in his answer, to load the cause with the expense of further proofs. The Plaintiff must produce at the hearing, the probate of the will of his father, and a motion must be made that the Defendants K. and W. do produce, at the hearing of the cause, “a certain book marked with the letter M., entitled a survey or rental of the manor of M., taken the day of , and the loose unsigned sheet of paper, and all other papers therein.” And also the two printed particulars of sale of certain copyhold tenements, holden of the manor of M., which were sold, or intended to be sold, on the day of , by J. J., formerly lord of the said manor, and which book and particulars of sale are referred to in the answers of the said Defendants.

And a motion must also be made, that the Defendants, the dean and canons of the king’s free chapel of St. George, within his castle of W., do produce at the hearing of the cause “the written paper or instrument, entitled M. manor, indorsed original survey, and purporting to be a presentment made at a court of survey, holden for the said manor, on the ” and two other papers, purporting to be copies of surveys of the manor of M., and wherein the customs presented are as in the said bill stated, and which papers or instrument are referred to in the answers of the said Defendants.”

I think it likely however, that the Defendants will consent to produce those papers without any motion being made, and such consent should be required when an answer is given to the letter. Messrs. J. and J.

Interrogatories as to Copyhold Premises.

Between S. Plaintiff,
and

A. Defendant.

Interrogatories exhibited, &c.

1st. [Knowledge of the parties.]

2d. [To prove deeds.]

*To prove
hand-writing
of clerk of the
peace.*

3d. Look upon the paper-writing now produced, &c. Do you know the hand-writing of the person whose name is set or subscribed thereto? Is or is not the person whose name is so set or subscribed thereto, clerk of the peace for the county palatine of L., as you know, or for any, and, what reason believe? Declare, &c.

*To prove
copy of court
roll.*

4th. Look upon the parchment-writing now produced, &c. purporting to be a copy of a court roll. Did you at any time or times, and when, carefully examine the same, with the court roll of any, and what manor by name? If yea, is the same a true copy of the court roll of which the same purports to be a copy, as you know or believe? Declare, &c.

*As to know-
ledge of copy-
holds.*

5th. Do you know the copyhold premises, situate, &c. in the pleadings in this cause mentioned; and how long have you known the same? Did I. A. the Defendant, in the title to these interrogatories named, at any time, and when, enter upon, and possess the same, and receive the rents and profits thereof? If yea, set forth at what time he entered upon, and possessed the same; and how long he hath continued in possession thereof, and every part thereof. Declare, &c.

*Whether De-
fendant sold
premises.*

6th. Did or not I. A. the Defendant, in the title, &c. at any, and what time, sell to any, and what person or persons by name, any and what part of the premises in the last interrogatory mentioned? If yea, set forth for what price, and for what sum or sums of money the said Defendant received, as the consideration thereof. Declare, &c.

*As to rent
paid.*

7th. Hath, or have any, and what sum or sums of money, been paid to, or to the use of the said I. A. in the title, &c. by any tenant or tenants, as the rent or rents of any and what part of the premises in the 5th interrogatory mentioned? If yea, set forth for what, and from whom by name, and what sum or sums hath or have been so paid. Declare, &c.

*As to taking
possession.*

8th. Of what trade or profession are you? Do you know the copyhold premises, in the pleadings in this cause, and in the 5th interrogatory mentioned, and how long have you known the same? Of what annual value was the same when I. A. the Defendant, in the

INTERROGATORIES.

title, &c. first took possession of the same, as you know, or for any, and what reason believe? Of what annual value is the same, and particularly such part thereof as remains in possession of said I. A.? Declare, &c.

Lastly: [Possession.]

Interrogatories to prove a Will.

Between B. . . . Plaintiff,
and
B. . . . Defendant.

Interrogatories exhibited, &c.

1st. Interrogatory. Do you know the parties Complainant and Defendant, in the title of these interrogatories named, or either, and which of them? And did you know H. B. the Testator in the proceedings of this cause named, in his life-time? If yea, for how long did you know him, and when, and how long since did he depart this life? And did you ever see the said H. B. write, and are you, or are you not, acquainted with his character or manner of hand-writing? Set forth, &c.

2d. Was you, or was you not present, and did you, or did you not see the said H. B. sign, seal, publish, and declare the said writing, now produced to you, and shewn at this the time of your examination, marked with the letter C, and contained in a sheet of paper, as and for his last will and testament? Do you know of whose hand-writing the body of the said will or writing, is; and do you, or do you not believe that the said H. B. was of sound mind, &c. at the time of his making, signing, sealing, and publishing the said produced writing as and for his last will and testament? Did, or did not the said H. B. appear to be in his right senses, and of sound mind, memory, and understanding, at the time when he so signed, sealed, and published the said produced writing as and for his last will and testament; and did he, or did he not appear to know what he said or did? Where was the same executed, and at whose desire did you attest the execution of the same, or how came you to be a witness thereto? Did, or did you not, and the other persons whose names appear to be set or subscribed as witnesses to the said now produced will, attest the same by writing and subscribing your respective names as witnesses thereto, in the presence of the said Testator H. B., and in the presence of each other? And is or is not
your

your name, appearing to be set or subscribed to the now produced will or writing, marked C, of your own proper hand-writing? Did you, or did you not see the said other persons, whose names appear to be set as witnesses, write or subscribe their names as witnesses thereto? And are, or are not, the names of the said other persons, or whose names appear to be set as witnesses thereto, of their respective hand-writing? Are, or are not, such other witnesses, whose names appear to be set or subscribed, living or dead? If dead, when did he or they respectively die, as you know or believe? Have you or not, at or before this the time of your examination, carefully looked over, compared, and examined the now produced writing, and shewn to you at this the time of your examination, and exhibited will, marked with the letter C, which appears to be attested by you, with the transcript or a copy thereof, hereinafter in this interrogatory set forth, and contained in the words and figures following, that is to say, (*insert or copy the will as the same is set out in the bill*)? And is the same a true copy or transcript of the said original will, or where does the same differ or vary? Declare, &c.

Lastly. (*As usual.*)

To prove Deeds by subscribing Witness.

** If to prove indorsements, insert the following words: "or any, and what deed or writing indorsed thereon, or on any, or either, and which of them."*

1st. Look upon the deeds or writings, produced and shewn to you at this the time of your examination, marked respectively with the letters, &c. Whether or no, were, or was the same, or any, or either, and which of them *, at or about any, and what times or time, signed, sealed, and delivered, or signed by any, and what persons or person, in your presence? Are you, or not, a subscribing witness to the signing, sealing, and delivering, or signing thereof, or of any, or either, and which of them, by all, or any, or either, and which of such persons; of whose hand-writing is your name now appearing to be subscribed or indorsed as witness thereto respectively? Declare, &c.

2d. Look upon, &c. Whether or no have you known, or been acquainted with the character or manner of hand-writing of any, and what person and persons whose names or name now appear to be set, subscribed, or indorsed to or on the said deed or writings, or any, or either, and which of them, as the party or parties, witness or witnesses thereto, or to any, or either, and which of them,

them, or to any, and what writing or writings indorsed thereon, or on any, or either, and which of them? Set forth of whose hand-writing each and every, or any, and which of the names now appearing to be set, subscribed, or indorsed, as party or parties, witness or witnesses thereto, or to any, or either, and which of them, or to any writing or writings indorsed thereon, or on any, or either, and which of them is, or are; and whether you have, or not, seen all, or any, and which of such persons write, and whether all, or any, and which of such witnesses are now living or dead, and if living where they respectively dwell, and if dead, when and about what time, and where they respectively died. Declare, &c.

3d. Look, &c. Whether do you know, or are you acquainted with the character or manner of hand-writing in which the same, or any, or either, and which of them, or any, and what part or parts thereof are or is written? Set forth, if you can, of whose hand-writing the said paper-writings, and each, or either of them, or any, and what part or parts, and particularly the name or names now appearing to be subscribed thereto, and to each, or any, and which of them, and the direction or superscription of such of them, if any have direction or superscription, is or are; and whether you have or not seen all, or any, and which of such persons write. Declare, &c.

Interrogatories to prove a Will by all the subscribing Witnesses, if living.

Between H. . . . Plaintiff,
and
A. . . . Defendant.

1st. [Knowledge of the parties.]

2d. Look upon the paper, or parchment-writing, now produced and shewn to you at this the time of your examination, marked with the letter A, and consisting of sheets or skins. Whether or no was the said produced writing, at any time, and when, signed, sealed, published, and declared by W. H., late of S., in the county of B., esq. the Testator in the pleadings of this cause named, as and for his last will and testament, in your presence, and in the presence of any other person or persons, and whom; or did the said Testator in any other, and what manner execute the said produced writing, or acknowledge the same as and for his last will and testament in your presence, and in the

the presence of any other person and persons, and whom? Whether or no is your name, and the name or names of the other person or persons, set or subscribed as a witness or witnesses thereto, of your, his, or their proper hand-writing respectively? And whether or no did you, and such other person or persons, or either, and which of you, set or subscribe your name or names as a witness or witnesses thereto, in the presence of the said Testator? And whether or no are such subscribing witness or witnesses now living or dead? And if any, or either of them are dead, where, and when did such witness or witnesses die, as you, for any and what reason, know or believe; and if any, or either of them are living, where do they respectively reside? Whether or no was the said Testator, at the time of his signing, sealing, publishing, and declaring the said produced writing as and for his last will and testament, or otherwise executing or acknowledging the same, of sound and disposing mind, memory, and understanding, or how otherwise, as you, for any and what reason, know or believe? Set forth, &c.

Lastly. Do you know of any other matter and thing, &c.?

Interrogatories for the Examination, before a Master, of the Executor and Heir at Law of Defendant, who was the Agent, Steward, Receiver, and Manager of the Estates in question, as to Monies laid out, &c.

Between, &c.

Interrogatories exhibited, &c.

1st. Interrogatory. Set forth, according to the best of your knowledge and belief, a full, true, and particular account of all and every the rents, issues, and profits, and sums and sum of money arising from rents, issues, and profits of the estates of the Plaintiffs viscountess S. and C. C., in the pleadings mentioned, situate in the several counties of, &c. or any of them, which have arisen or become due since the death of J. B. their mother, received by, or come to the hands of the late Defendant R. B., in his life-time, and you, the now Defendant R. B. as his heir at law and executor, since his death, or any other person or persons, by your or either of your orders, or for your or either of your use, or which, without your, or either, or one of your wilful default, might have been received thereout, with the times when, and from whom, and for what the same, and each and every of them were respectively received, or might have been received.

2d. Set

2d. Set forth, in manner aforesaid, a full, true, and particular account of all and every sums and sum of money paid, laid out, expended, disbursed, or allowed for repairs, taxes, and other outgoings in respect of the said estates, or otherwise, to, for, or on account of the Plaintiffs, or any of them, by the late Defendant R. B. in his life-time, and you, the now Defendant, R. B. since his death, or by any other person or persons, by your, or either of your order, or on your, or either of your account, with the times when, and by, and to whom, and for what the same, and each and every of them were so paid, laid out, expended, disbursed, or allowed.

3d. Set forth, in manner aforesaid, a full, true, and particular account of all such parts of the said estates as were at any time or times sold since the death of the said J. B., the mother of the said Plaintiffs, with the times when, and to whom, and for what prices respectively the same, and every part thereof were or was sold; and also an account of all and every sums and sum of money arising from such sales or sale received by, or paid to the account of, or in anywise come to the hands of the said late Defendant R. B., or to the hands of his bankers, or any other person or persons by his order, or for his use, with the times when, and from whom, and for what all and every such sums and sum of money were or was received or paid; and also a full, true, and particular account of all timber which hath been cut down in or upon all or any part or parts of the said estates of the said Plaintiffs viscountess S. and C. C. at any time or times since the death of the said J. B., their mother, with the time when, and the names of the particular woods, fields, grounds, or places, in which the same were cut, and the number of trees from time to time so cut, and the prices or values thereof respectively, and to whom the same were sold, and by whom the same were cut down respectively from time to time; and also a full, true, and particular account of all and every sums and sum of money which, at any time or times, and when, were received by, or come to the hands of the said late Defendant R. B., or any other person or persons by his order, or for his use, from such timber as aforesaid, or which, without his own wilful default, might have been received, and from whom, and for what all and every such sums and sum of money were or was received.

4th. Set forth also, in manner aforesaid, a full, true, and particular rental of all and every the said estates of the Plaintiffs, &c. in the several counties aforesaid, as the same stood at the time of the death of the said
J. B.,

J. B., their mother, specifying therein the names of all and every the tenants, and the yearly rents of each of the said estates at that time; and also set forth all and every increase or advance of all and every, or any of the rents of the said estates from time to time made, with the particular times or periods when and from which such increase or advance took place, so as to shew what was the yearly amount of the rentals of the said estates in every year when any advancement or increase took place from the death of the said J. B. to this time, save and except such increase or advance as may have been made by the Plaintiffs in the rents of such of the said estates as were delivered into their hands since their possession thereof.

5th. Set forth, in manner aforesaid, a full, true, and particular account of all the woods and wood-lands, parcel of the said estates, with the names and quantities, or number of acres thereof respectively, and the places where the same are situate; and also a full, true, and particular account of all such lands and tenements, parcel of the said estates, as at any time or times were not let to any tenant or tenants, or were in hand or occupied by the said late Defendant B. R., or any other person or persons by his order, or on his account, with the names and quantities, or number of acres, and yearly value thereof respectively, and when, and how long from time to time the same were so unlet to any tenant or tenants, or were in hand or occupied by the said late Defendant R. B.; and set forth also, in manner aforesaid, the names of the several manors belonging to the said estates, and in what particular counties the same are situate, with the natures and extents of such manors respectively, and a full, true, and particular account of all quit rents, and of all fines, heriots, and other uncertain profits belonging or arising from each of such manors respectively, with the yearly amounts thereof.

6th. Set forth, in manner aforesaid, the name or names, and place or places of abode of the steward or several stewards employed by the said late Defendant R. B. from time to time, in the collection of the rents and management of the said estates, and each of them respectively, from the time of the death of the said J. B. down to the time when possession of any of the said estates was taken by the Plaintiffs, and down to the time of his own death, as to such of the said estates as he continued in possession of to that time.

7th. Set forth, in manner aforesaid, a true and particular schedule of the accounts of all and every the stewards and agents of the said estates from the time of the death of the said J. B. down to the time when the possession

possession of any of the said estates was delivered into the possession of the Plaintiffs, and down to this time, as to such of them as the said late Defendant continued in possession of until his death, and which are now in your possession; and also a true and particular schedule of all the surveys, field books, maps, plans, counterparts of leases, rentals, particulars, books and papers of accounts, minutes, entries, agreements, and memorandums, kept by all or any of the said stewards or agents of or concerning the said estates, or any of them, or the rents, profits, or management thereof, and whether any such have at any time or times, to your knowledge, information, or belief, been torn, burnt, or destroyed, and when, and by whom; or whether you have ever seen or heard of any such which are or is not now forthcoming, and what is become thereof, according to the best of your knowledge, information, and belief.

8th. Set forth also, in manner aforesaid, a full and particular schedule and description of all and every or any books or book of account, memorandums, agreements, declarations of trust, letters, minutes, entries, or other papers, at any time or times kept by the said late Defendant R. B., of or concerning his receipts, payments, or transactions, for or upon account of the Plaintiffs viscountess, &c. or all or any of their estates, or the Plaintiffs lord S., &c. or in anywise concerning the said estates, or any of them; and whether, to your knowledge, information, or belief, any such books or book of account, memorandums, minutes, declarations of trust, letters, entries, or papers, have at any time been torn, burnt, or destroyed, or whether you have ever seen or heard of any such which are or is not now forthcoming, and if so, what is become thereof, according to the best of your knowledge, information, and belief.

9th. Set forth, in manner aforesaid, a full, true, and particular account of all and every the manors, messuages, lands, tenements, and hereditaments, which are comprised in the indentures of, &c. in the pleadings mentioned, and in the indenture of, &c. in the pleadings also mentioned, and in each and every of them; and also set forth a full, true, and particular account and rental, of all such of the said manors, &c. as now remain unsold, specifying therein the names of all and every the tenants or tenant, or occupiers, the names and quantities, or number of acres of the fields and lands occupied by each tenant.

11th. Set forth, in manner aforesaid, a true and particular schedule of all title deeds and writings, and other deeds, instruments, evidences, and writings relating to the said estates of the said viscountess S., &c.

in

in the several counties aforesaid, or to any of them, now in your custody or power, or which at any time or times have been in your custody or power, or in the custody or power of the said late Defendant R. B., and if any of the deeds and evidences relating to the said estates, or any of them, were at any time or times in the custody or power of the said late Defendant R. B., or in your custody or power, and are not now in your custody or power; set forth in whose custody or power the same now are, or what is become thereof, as you know, have heard, or for any and what reason believe.

12th. Do you not admit assets of the said late Defendant R. B. sufficient to answer what, on taking the aforesaid accounts, shall appear to have come to the hands of the said late Defendant? If not, then set forth, in manner aforesaid, a full, true, and particular account of all and every sums and sum of money, securities for money, arrears of rents, goods, chattels, personal estate and effects whatsoever, of or belonging to the said late Defendant R. B. at the time of his death, with the kinds, qualities, natures, true and real values thereof respectively; and also set forth a full, true, and particular account of all such parts thereof as have been possessed, received, or come to the hands of you the said now Defendant R. B. as his executor, with the times when and how, and of whom you have possessed or received the same, and what part or parts thereof, if any, now remain outstanding.

Inquiry as to Intestate's Estate and Effects, and Money laid out upon his Account.

Between P. widow, Plaintiff,
and
T. P. Defendant.

Interrogatories exhibited, &c. (*before the Master, &c.*) as before.

1st. Interrogatory. Whether or no was R. P. the intestate, in the pleadings in this cause named, at the time of his death, possessed of, or entitled to any personal estate and effects, other than and besides, and exclusive of his part, share, or interest in the co-partnership trade and business, in the pleadings in this cause mentioned, and the stock and effects belonging thereto? If yea, set forth a full, true, and particular inventory and account thereof, and all the particulars whereof the same consisted, and the full, true and utmost values thereof, and all the particulars thereof which

which were possessed by you, or any, and which of you, and by any other person or persons by your, or any and which of your order, and for your, or any, and which of your use, or by the said late Defendant T. P. or any other person or persons by his order, or for his use, in his life-time, and how, and in what manner the same were, and have been applied or disposed of. And also an account of all, and every sums and sum of money received by sale, or on account of the said intestate's personal estate and effects, other than, and independant, or distinct from his share, interest, or concern in the co-partnership trade or business, in the pleadings in these causes mentioned, or the stocks or effects belonging thereto, or otherwise on account of his said separate personal estate and effects of the said intestate, and when, by whom, and of whom, for what, and on what account or accounts the same, and every part were or was so received; and whether any and what part or particulars of the said separate personal estate and effects of the said intestate remains or remain outstanding or un-received.

2d. Whether or no was the said intestate R. P. at the time of his death, separately indebted to any persons or person besides, or exclusive of the debts owing from him as a partner in the aforesaid co-partnership concern or business? If yea, set forth a full, true and particular account of all, and every such debts. Have you or not, or have, or hath, or not, any, and which of you, or any persons or person by your, or any, and which of your order, or on your, or on any, and which of your behalf, paid, laid out, or expended? And did the said late Defendant T. P. or any other person or persons by his order, or on his behalf, in his life-time, pay, lay out, or expend any, and what sums or sum of money, in or towards discharging of all, or any, and which of such debts, or of the funeral expenses of the said intestate R. P.? If yea, set forth a full, just, true, and particular account of all, and every such sums or sum of money, and when, and by whom, and to whom, and for what, or on what account or accounts the same, and every part thereof were or was so paid, laid out, or expended.

Interrogatory to prove whether a Person was empowered to let the Estates in question, and to receive the Rents, &c. Inquiry as to the Particulars, Rental, what Money received, &c.

Whether or no was you, in the life-time of the said Testator T. D. and for how long before his death, empowered

powered by him, or any other person, and whom, to let and sell all, or any, and what part of the freehold and leasehold estates of the said Testator, and to receive the rents and profits thereof; or do you otherwise, and how, know of what freehold or leasehold estates the said Testator died seized, or possessed of, or entitled unto? If yea, set forth a full, true, and just rental, description, and particular thereof, and where the same, and every part thereof is situate, and the yearly value of each particular thereof, and in whose tenure or occupation the same, and every part thereof then was, or since has been, and now is, and under what leases or terms of years, if any, and at what yearly or other rent or rents. And set forth for how long time you have been in possession or receipt of the rents and profits of such freehold and leasehold estates, or any, and what part thereof, and by what right or title, and for whose use. And also set forth a full, true, and particular account of all, and every sum and sums of money which hath been received by you or any other person or persons by your order, or for your use, for, or in respect of the rents and profits of the said estates, or any part thereof, which have become due since the death of the said Testator, and what, and by whom, and for whose use, and for what rent, and of what part of the said estates, and when due, all, and every such sums were respectively received; and whether any, and which of such rents and profits are now in arrear, and if so, why. And also set forth a full, true, and particular account of all, and every the sum and sums of money which have or hath been from time to time paid and disbursed by you since the death of the said Testator, for or on account of the said freehold and leasehold estates of the said Testator, and when, and to whom, and for what, all, and every such sums were respectively paid and disbursed. Set forth, &c.

Interrogatories before a Master as to what the Property of a Lunatic consists.

1st. Interrogatory. Of what did the property of the said lunatic consist at the death of his father, and of what doth it now consist, and what part of it then, and doth now consist of personal property? And set forth a full, true, and just rental and particular of the real estate to which the lunatic became entitled at the death of his father, and the nature, quantities, and qualities thereof,

thereof, and where the same, and every is situate, and the yearly value of each particular thereof, and in whose tenure and occupation the same, and every part thereof was, at the death of the father of the said lunatic, and since have been, or now is, and under what yearly or other rent or rents, and for what term or terms of years, and whether at full rack rent, or how otherwise.

2d. Have not you, or some person or persons, and whom, by your order, or to your use since the death of the father of the said lunatic, been in possession or receipt of the rents and profits of the real estates to which the said lunatic became entitled at the death of his father thereof, or of some, and what part thereof? If yea, set forth a full, true, and particular account of all, and every sum and sums of money which hath, and have been received by you, or any person or persons by your order, or to your use, for, or in respect of the rents and profits of the said estate, or any part thereof which have become due since the death of the father of the said lunatic, and when, and by whom, and from whom, and for what rent, and of what part of the said estates, and when due, all, and every such sums were respectively received. And set forth also a full, true, and particular account of the manner in which such rents and profits have been applied or disposed of by you in each year, particularly distinguishing how much thereof hath in each year been applied for the maintenance and provision of the lunatic, and how much thereof for repairs and other outgoings.

3d. Were the repairs which have been so done to the said estates, been done by you by the advice of any surveyor or builder, and whom, and were the same necessary, and such as the tenant of the said several premises had a right to require from their landlord? If so, why? And was the father of the said lunatic at the same average expenses for repairs in his life-time, as you have incurred since his death? and if not, why? And whether or no, is it a prudent course of management to let the said estates upon such terms that the tenants have a right to require such repairs, and might not the same have been let on repairing leases or otherwise, upon terms more advantageous to the landlord? And would you have let the said estates upon such terms, and have done the said repairs thereto if the said estates had been your own property? And have you not redeemed the land-tax, or some, and what part of the said estate, and for what reason?

Interrogatories for the Examination of Witnesses before the Master, relating to the Estates of the Testator, and also to the Title Deeds.

Between T. H. and S. his wife . . . Complainants,
and
H. J. and others . . . Defendants.

Interrogatories exhibited on behalf of the said Complainants, before A. P. esq. one, &c. (*the usual title*), for the examination of witnesses.

1st. Interrogatory. Whether or no, as you, for any, and what reason, know or believe, was A. B. the Testator in the pleadings of this cause named, at the time of his death seized of, or otherwise, and how, entitled to, or in any and what manner interested in any, and what freehold and copyhold estates, and in particular had he any, and what interest in a certain estate called P. in the parish of K. in the county of M.? Set forth a full, true, and just description and particular of all, and every the freehold or copyhold estates which the said Testator was seized of, or entitled to, or interested in, at the time of his death, and where the same, and every part thereof is situate, and in whose tenure or occupation the same, and every part then was, or since has been, and now is respectively. Set forth, &c.

2d. Have you, or had you, at any time, and when last, in your custody or power, any deeds or deed, instruments or instrument, papers or paper, writings or writing, belonging, or in any manner relating to any, and what freehold or copyhold estate, of which the said Testator was seized of, or entitled to, or interested in, at the time of his death, and in particular relating to the said estate called P. or to a certain messuage, lands, and premises, situate in the parish of B. in the said county of M. called L. in the occupation of D. H. or to another messuage, lands, and premises in the said parish of B. called T. P., in the occupation of the said D. H. or to another messuage, lands, and premises called C. P., situate in the parish of M. in the said county, in the occupation of J. J.? Set forth a list or schedule of all and every such deeds or deed, instruments or instrument, papers or paper, writings or writing; and set forth what is become of such thereof as were, but are not now, in your custody or power; and set forth also whether any person or persons, and whom in particular as you know,

or for any and what reason believe, has, or have now, or has or have at any time, and when, had in his, her, or their custody or power, any and what, deeds or deed, instruments or instrument, papers or paper, writings or writing, belonging, or in any manner relating to the said freehold and copyhold estates of the said Testator, or any and what part thereof.

Interrogatories for the Examination of Executors before the Master, after the Hearing.

Between A. B. . . . Plaintiff,
and
C. D. . . . Defendant.

Interrogatories exhibited on behalf of the said Plaintiff, before I. E. esq. one of the Masters of this honorable Court, for the examination of the Defendants, pursuant to the decree made in this cause, bearing date the

*Account of
personals.*

Whether or no was D. W. deceased, in the pleadings of this cause named, at the time of his death, possessed of, entitled to, or interested in any and what, goods, chattels, personal estate and effects, as you know, or for any and what reason believe? If yea, set forth a full, true, and just inventory and account thereof, and of every part thereof, and of all the particulars whereof the same consisted, and the quantities, qualities, full, real, and true valuations of all such particulars. And whether or no were all, or any, and which of such particulars, and to what amount and value, possessed or received by, or come to the hands or use of you, or one, and which of you, or any and what, persons or person, by the order, or for the use of you, or one and which of you, and how, and in what manner, and when, and where, and by whom, and for how much have the same, and every, or any, and what part thereof been sold and disposed of? And whether any and what parts thereof, and to what value and amount now remain undisposed of, and what are become thereof? Whether or no were any and what sums of money due or owing to the said D. W. at the time of his death? If yea, set forth a full, true, and particular account of all and every such sums, and from whom, and for what the same were respectively due. And whether, on any, and what, securities or security, and whether carrying interest

*Debts due to
Testator.*

interest or not, and at what rate, and how much was due for interest thereof respectively at the time of his death; and also a full, true, and just account of all and every sums and sum of money from time to time received by, or by the order of, or for the use of you, or either of you, in or towards discharge of such debts, or either of them, or the interest thereof, or of any of them since the death of the said D. W. and when, and by whom, and for whose use, and for what, all and every such sums were respectively received; and what sums or sum of money still remain due in respect thereof, or of the interest thereof, or of any of them, and from whom, and why such sums have not been gotten in and received, and where the persons from whom the same are respectively due live and reside; and whether the same, or any and which of them, are, or are reputed to be, respectively separate and apart; set forth all the matters aforesaid, according to the best of your respective knowledge, remembrance, information, and belief.

*Account of
debts owing by
Testator.*

Whether or no was the said D. W., at the time of his death, indebted to any, and what persons or person, in any and what sums or sum of money? If yea, set forth a particular account of all and every the debts whatsoever which were then justly due and owing from him, and to whom, and for what, and on what security (if any) the same were respectively due; and whether any, and what sums or sum of money have or hath been since paid by you in or towards discharge of all or any, and which of such debts, and when, and to whom, and for what; and whether any, and what sums or sum of money do or doth now remain unpaid on account thereof. Whether or no were any and what sums or sum of money paid and disbursed by you, for or on account of the funeral expenses and debts of the said Testator, or otherwise, in relation to his estate, and when, and by whom, and to whom, and for what were all and every such respectively paid? Set forth, &c.

*Funeral ex-
penses and other
charges paid
by executors.*

Another form.

Whether or no, as you know, or for any and what reason beligeve, was any and what part of the personal estate of the said Testator possessed and received by I. B. in the pleadings in this cause named, in his life-time, or by E. B. W. H. and G. B. the executrix and executors of the said I. B. after his death; or did the said I. B. or the said E. B. W. H. and G. B. make any and what payments in respect of the funeral expenses and debts of the said Testator I. B. or otherwise, in relation to his estate, and when, and to whom, and for what were all and every such payments made?

As to the leasehold property and stock in trade.

Whether or no was the said Testator, at the time of his death, possessed of or entitled to any leasehold property? If yea, set forth the particulars of which the same consisted, and where the same and every part thereof was situate, and from whom, and for what term or terms of years, and under what yearly or other rent or rents the same and every part thereof was at the death of the Testator, and at what rent or rents; and whether any and what sums or sum of money have been received by you, or either of you, in respect of such rent or rents, and when, and from whom, and for what rent respectively; and whether or no, have you, or either and which of you, sold any part of the said Testator's leasehold property? And if yea, when, and to whom, and for what was the same sold, and what sum or sums of money have been received by you, or either and which of you, in respect of such sale, and when, and from whom, and for what were such sums or sum received, and what now remains due in respect of such sale, and why the same is outstanding and unpaid. And set forth also a full, true, and particular account of the stock in trade which the said Testator was possessed of, or entitled to, at his death, of what the same and every part thereof consisted, and what at the said Testator's death was the full and true value of each and every part thereof. And set forth also a full, true, and particular account of the monies produced by the sale of such stock in trade, and when, and to whom, and for what the same and every part thereof was sold, or what became thereof. Set forth all and every, &c.

Enquiry as to personal Estate and Money arising by Rents and Sale of real Estate, since swearing Answers.

Hath not some, and what part of the personal estate and effects of H. R. esq. deceased, the Testator in the pleadings in this cause named, or of the produce of such personal estate, or of the money arising by sale of his real estate, or any part thereof, or in respect of the rents or profits of his real estate, or of any part thereof, been possessed or received by, or come to the hands of you, or one and which of you, since the respective times of your respectively swearing to your respective answers to the plaintiff's bill in this cause? Set forth a full, true, and just account of all and singular such personal estate, and the produce thereof, which hath been so possessed or received by you respectively, or by your respective, or for your respective use, or come to your respective hands

hands, since the time of swearing your said respective answers, and the natures, kinds, qualities, and quantities, and the full, real, and true value of all and every of such particulars, and when and by whom, and to whom all and every, or any and which of such particulars have been sold or disposed of; and whether any and what part thereof remains undisposed, and what are become thereof? Hath any and what part of the personal estate of the said Testator, H. R., which remained undisposed of at the time of swearing your said respective answers, been since sold or disposed of, and when, and by, and to whom, and for how much, and whether for the full value thereof, or how much under the full value thereof respectively, and what sums or sum of money have or hath been received for the same, and when and by whom, and for whose use? Set forth all and every the matters and things aforesaid, according to the best of your respective knowledge, remembrance, and belief.

Set forth also a full, true, and just account of all and every the sums and sum of money, which have or hath been from time to time received by you, or either of you, or by any persons or person by the order, or for the use of you, or either of you, since the swearing of your said respective answers, for or in respect of the produce or money arising by sale of the real estate of the said Testator, or any part thereof, or the rents or profits of such real estate, or any part thereof, and when, and by, and for what, and on what account all and every such sums were respectively received. Set forth, &c.

Interrogatories as to the Profits and Produce of an Estate in the West Indies in Mortgage.

Between W. D. Q., and J. G. . Plaintiffs,
and
W. B., W. A., J. J., G. B., and
W. L. . . . Defendants.

Interrogatories exhibited by Plaintiffs, and the Defendants J. J., and W. L. before sir W. W. barr. one, &c. (usual title.)

1st. Interrogatory. Is there or not any sum of money due and owing to you, for principal or interest on the mortgages in the pleadings in this cause mentioned, and in the decree in this cause particularly specified? If yea, set forth how much is due to you for principal, and how much for interest, and the particulars thereof respectively, and how you make out or compute the same.

L L

Set

Set forth the matters in this interrogatory inquired after, according to the best of your knowledge, remembrance, information, and belief; distinguish whether you set forth the same from your own knowledge, or from any and what written book, document, or account, or from the information of any other person or persons, and if from the information of any other person or persons, set forth the name or names of such person or persons, and the time when you received such information; and if, according to your belief only, set forth how and from whom, in what manner, and when you received the information on which you form your belief, and all the grounds and reasons for such your belief, fully and at large.

2d. Have you laid out or expended any sum or sums of money in necessary repairs, or lasting improvements upon the estates and premises in the island of J. comprized in the indentures of mortgage in the decree in this cause particularly mentioned? If yea, set forth what sum or sums of money you so laid out or expended, and for what repairs or lasting improvements, and when, where, by whom, and to whom particularly, such sum or sums of money, and every of them respectively, was or were paid, laid out, or expended; and set forth and distinguish how much of such sum and sums of money have or hath been laid out or expended in necessary repairs, and how much in lasting improvements; set forth the matters in this interrogatory inquired of you, according to the best of your knowledge, remembrance, information, and belief; distinguish whether you set forth the same from your own knowledge, or from any and what written book, document, or account, or from the information of any other person or persons; and if from the information of any other person or persons, set forth the name or names of such person or persons, and the time when you received such information, and if, according to your belief only, set forth how, and from whom, and in what manner, and when you received the information on which you form your belief, and all the grounds and reasons for such your belief, fully and at large.

3d. Set forth a full, true, and particular account of the rents, produce, and profits of the estates and premises, comprized in the mortgages in the decree in this cause mentioned, received by you, or by any other person or persons, by your order, or for your use, or which, without your wilful default, might have been received thereout, and when, where, and what time and times respectively, and by whom, and from whom respectively such rents, produce, and profits, and every part thereof, have and hath, and might have been received, and why, and for what reason or reasons any and what part and parts

parts of such rents, produce, and profits, have or hath not been received; set forth the matters in this interrogatory inquired of you, according to the best and utmost of your knowledge, remembrance, information, and belief. Distinguish, &c. (*as before.*)

4th. Whether or no did you, or any person, for your use, or on your account, under colour of the writ of assistance in the decree in this cause mentioned, enter upon and take possession of any estates and premises, the property of, or belonging to the Plaintiffs, or those under whom they claim, which were not comprised in the said several mortgages in the said decree mentioned, or any or either of them? If yea, set forth what estate or estates, or premises, you, or any person for your use, or on your account, so took possession, and the nature, quantity, and quality thereof, and the particulars thereof, and every part and parts thereof? And also set forth a full, true, and particular account of the rents, produce, issues, and profits of the said estates and premises, in this interrogatory inquired after, received by you, or by any other person or persons, by your order, or for your use, or which, without your wilful default, might have been received thereout; and distinguish the same from the rents and profits of the estates and premises comprised in the said several mortgages, and set forth when, and at what time and times particularly, and by whom such rents, produce, issues, and profits, as by this interrogatory are inquired after, have or hath been, or might have been received, and why, and for what reason or reasons any and what part and parts of such rents, produce, issues, and profits, have or hath not been received. Set forth the matters, &c. Distinguish, &c.

5th. Have you expended any sum or sums of money in lasting improvements, upon the estates and premises in the preceding interrogatory inquired after, being the estates and premises not comprised in the mortgages in the decree in this cause mentioned? If yea, set forth what sum or sums of money you so expended, and for what lasting improvements, and when, where, by whom, and to whom particularly such sum or sums of money, and every of them respectively, was or were paid, laid out, or expended. Set forth the matters, &c. Distinguish, &c.

6th. Has it not been the constant and invariable usage for your agents or managers of your estates in the West Indies, to transmit accounts every year, or at any and what other stated or uncertain periods, of all the sugars, rum, and other produce, arising from the estates in the pleadings in this cause mentioned, and how the same have been disposed of? Were not such books an-

nually, or at some and what other stated or uncertain periods, examined, and the accounts therein contained, signed, or allowed by you, as settled accounts, or by some and what person or persons duly, or in some and what manner authorized by you, to settle and sign such accounts, or to act on your behalf? Do not such accounts contain an account of all the produce arising from the estates in the pleadings mentioned, and how the same, from time to time, have been disposed of for the whole of the time since the same were taken possession of, under the writ of assistance, to the present time, or for any and what part of such time; and if not for the whole of such period, set forth from what time the accounts of the produce of the estates in question in this cause, have been omitted to be included in the accounts returned to you or your agents in England, of the produce of your other estates in the West Indies, and why, and for what reason, the same were so omitted. Have all and each, and every of such signed accounts, been produced and left with the Master, to whom this cause stands referred; and if not, why? Answer fully and distinctly the several matters inquired after by this interrogatory. And distinguish, &c.

7th. Set forth a true and accurate account of the names of the managers of the estates in the pleadings mentioned, in the West Indies, and of the consignee or consignees of the produce thereof in England, from the time the same were taken possession of as aforesaid, to the present time, and from what time to what time each and every of such persons were manager or managers, or consignee or consignees. Set forth the particulars inquired after by interrogatory, according to the best of your knowledge, information, and belief.

8th. What number of negroes or slaves were there on the estates in the pleadings in this cause mentioned, at the time you took possession thereof, under the writ of assistance, in the said pleadings mentioned? Set forth a list or schedule thereof, with the names of each and every of such negroes or slaves, and of the issue and increase thereof existing at the time, or since produced, after you had so taken possession of the said estates. Were, or were not some, and which of such negroes or slaves, removed, at some and what time or times, off and from the said estates, to some and what other estates belonging to you in Jamaica, or to some and what other place or places? If yea, which of such slaves were so removed? Set forth the particulars and names of such slaves which were so removed, and of the issue and increase thereof, and when they were respectively so removed, and what became of them; and how were they, and each and every of them,
and

and their issue and increase disposed of? Were any and which of such negroes, or of the issue and increase thereof sold, and when and to whom, and for what price or prices? Set forth, &c.

Interrogatories to examine Mortgagees in Possession, as to Receipt of Rents.

Between, &c.

Interrogatories exhibited, &c. (*before the Master.*)

1st. Interrogatory. Whether or no is there any, and what sum or sums of money due and owing to you, or any or either, and which of you, for principal or interest on the mortgaged premises, in the pleadings in this cause mentioned? If yea, set forth how much is due for principal, and how much for interest, and the particulars thereof respectively, and how you make out or compute the same. Set forth, &c.

2d. Have you, or either and which of you, or any other person or persons, and whom, by your or either and which of your order, or for your or either, and which of your use, been for any time, and how long, in possession or receipt of the rents and profits of the said mortgaged premises, or of any and what part thereof? If yea, set forth a full, true, and just rental and particular thereof, and where the same, and every part thereof, is situate, and the yearly value of each particular thereof, and in whose tenure and occupation the same, and every part, is and hath been during the time of such possession, and under what yearly or other rent or rents. And set forth also a full, true, and particular account of all and every sum and sums of money which hath and have been received, or but for your, or some, or one and which of your wilful default and neglect, might have been received by you, or some or one, and which of you, or by any other person or persons, and whom, by your, or some or one, and which of your order, or for your, or some or one, and which of your use, for or in respect of the rents and profits of the said mortgaged premises, or any part thereof, and when and by whom, and from whom, and for what rent, and of what part of the said mortgaged premises, and when due, all and every such sums were respectively received, or might have been received. Set forth, &c.

Interrogatories to prove that Crop was on Plantation at the Time of Sale; whether free from Incumbrances; as to Security Mortgagee had; and to what he resorted for Payment of his Money.

To prove that crop was on plantation, and what has become thereof.

1st. Interrogatory. Whether or no, on the sale of the plantation and estate by you to H. G. for which the said sum of £ was the consideration or purchase-money, was the crop then on the said plantation or estate, or any and what part thereof comprized in the said sale, and in the said purchase-money of £ ? If yea, whether or no have, or has any person or persons, and whom, applied or converted any, and what part of the crop so sold to your use, and when, and to what amount, as you, for any and what reason, know or believe?

As to incumbrances on plantation, and to whom due.

2d. Whether or no have you, in pursuance of the agreement or articles of sale, between you and the said H. G. made the said plantation and other premises comprized in such agreement or articles, free and clear of and from all estates, rights royal, and other duties, particularly the duties, if any, payable to the king of Denmark, in respect of the said plantation and premises, on the sale and transfer thereof, or otherwise, howsoever, and of and from all other duties, claims, and incumbrances; do the said plantation and other premises, or any and which of them, now remain subject, or liable to, contrary to the effect of the said agreement?

As to the security you had besides bond of mortgage.

3d. Whether or no had you any security or securities for the payment of the said principal sum of £ , and the interest thereon, or any part thereof, other than the said bond of the said Testator, T. B. and the covenant of the said H. G., and the mortgage or security of the said plantation or estate? If yea, set forth the particulars of all and every such securities, and the value and amount thereof, and what is now due thereon, and from whom respectively.

To prove what security mortgagee resorted to for payment of his money.

4th. Whether or no have you, in any and what manner, and when, resorted for payment of any and what part of the said sum of £ , and the interest thereof, or of any and what part thereof, to any and what other security, upon the said bond of the said Testator, T. B. ? and if not, why; and whether, if you had used due and reasonable diligence, could not the payment of some and what part of the said principal sum of £ or some and what part of the interest thereof, have been in some, and what manner enforced, from some and which other of your securities other than the said bond?

Interrogatories exhibited by Creditors, before the Master, concerning a Bond, &c.

Interrogatories exhibited on behalf of W. T. and , who claim to be creditors of the said Defendant, before S. T. esq. one, &c. to whom this cause stands referred, for the examination of W. L. for the proof of their debt, pursuant, &c.

To prove the existence of the bond.

1st. Interrogatory. Whether or no have you, at any time, and when, and for how long, had in your custody, possession, or power, or have you, at any time or times, and when respectively, seen, in the custody, possession, or power of any other person or persons, and whom, a bond or obligation in writing, executed, or purporting to be executed, by the present marquis of D. by his then name of earl of B. of the date and in the words and figures, or to the purport and effect hereinafter set forth, or any other and what bond, executed, or purporting to be executed by the said marquis of D. by his then name of earl of B. to J. F. T. the wife of W. T. of M. by her then name of B. or any other, and what date, or in any other and what words and figures, or to any other, and what purport and effect? (*Set forth bond.*)

To prove that the same came into Mr. L.'s possession, and what hath become thereof.

2d. Whether, and from whom, and upon what occasion, did you receive such bond or obligation, if the same hath ever been in your custody, power, or possession, and what is become of the said bond, and where is the same now, or was when you last knew thereof, and to whom, and when, and upon what occasion, did you give up the custody, possession, or power of the said bond? Or if the said bond hath never been in your custody, possession, or power, then upon what occasion or occasions did you see the same in the custody, possession, or power of any other person or persons, and what is now become thereof, as you know, or for any and what reason believe?

To prove that the bond was executed, by lord D., and to learn who was the attesting witness, and by whom the bond was filled up.

3d. Are you acquainted with the character of the hand-writing of the said marquis of D., and have you ever seen the said marquis write, or by what other means did you become acquainted with the character of his hand-writing; and whether or no do you believe that the name "B," set and subscribed to the said bond or obligation was of the proper hand-writing of the said marquis, or if not, why; and whether or no was the name of any attesting witness, and whom, set and subscribed to the said bond; and are you, by any, and what means, acquainted with the character of the hand-writing of such attesting witness, and was such name of his proper hand-writing; and is such attesting witness now living or dead; and when did he die? And do you know of whose hand-writing was the body and condition of the said bond?

4th. Whether

To prove that Mrs. T. gave no authority to receive the bond.

To prove acknowledgments probably made by lord D., that he gave the bond for Mrs. T.'s use.

To prove letters.

4th. Whether or no was any instrument, or other authority, produced to you, whereby the said Mrs. T. the obligee in the said bond, authorized and empowered any other person, and whom, to receive the money due on the said bond, or otherwise, to discharge the same? If yes, set forth the particulars of such instrument, or other authority, and what hath become thereof.

5th. Whether or no have you, at any time or times, and when, and upon what occasion or occasions, had any conversation with the said marquis of D. upon the subject of the said bond, or have you at any time or times, and when, and upon what occasion or occasions, heard the said marquis of D. speak of the said bond; and whether or no did the said marquis of D., upon such occasion or occasions, acknowledge or admit that he gave the said bond for the proper use and benefit of the said Mrs. T., or how otherwise?

6th. Look upon the letters or paper-writings now produced, &c. Of whose hand-writing are the said letters, or the signatures or superscriptions thereto respectively, as you, for any and what reason, know or believe?

Interrogatories as to the Estate and Effects of a Testator.

Between A. B. . . Complainant,
and
C. D. . . Defendant.

Interrogatories exhibited on behalf of the said Complainant, before E. F. esq. one of the Masters, &c. to whom this cause stands referred, for the examination of the Defendant, &c. pursuant, &c.

As to personal estate and effects executed. Debts due to Testator.

1st. Interrogatory. Whether or no was J. B., the Testator in the pleadings of this cause named, at the time of his death, possessed of, entitled to, or interested in any and what goods, chattels, personal estate, and effects: If yes, set forth a full, true, and just inventory and account thereof, and of every part thereof, and of all the particulars whereof the same consisted, and the quantities, qualities, full, real, and true valuations of all such particulars; and whether all, or some, and which of such particulars, have not, and when, been possessed or received by, or come to the hands of you, or one and which of you, or of some and what persons or person, by the order, or for the use of you, or one and which of you, and how, and in what manner, and when and where, and by and to whom, and for how much have the same, and every, or any and what part thereof, been sold or disposed

disposed of, and whether any and what parts thereof, and to what value and amount, now remain undisposed of, and what are become thereof? Set forth all the matters aforesaid, according to the best of your respective knowledge, remembrance, information, and belief.

*As to debts
due to Testator.*

2d. Whether or no were any, and what sums of money due or owing to the said Testator J. B. at the time of his death? If yea, set forth a full, true, and particular account of all and every such sums, and from whom, and for what the same were respectively due? And whether on any, and what securities or security, and whether carrying interest or not, and at what rate, and how much was due for interest thereof respectively, at the time of his death; and also a full, true, and just account of all and every sums and sum of money from time to time received by, or by the order, or for the use of you, or either and which of you, in or towards the discharge of such debts, or either of them, or the interest thereof, or of any of them, since the death of the said J. B. and when and by whom, and for whose, and for what, all and every such sums were respectively received, and what sums or sum of money still remain due in respect thereof, or of the interest thereof, or of any of them, and from whom; and why such sums have not been gotten in and received, and where the persons from whom the same are respectively due, live and reside; and whether the same, or any and which, are reputed to be respectively separate or apart? Set forth, &c.

*As to debts
due.*

3d. Whether or no was the said Testator, J. B., at the time of his death, indebted to any and what persons or person, in any and what sums or sum of money? If yea, set forth a particular account of all and every the debts whatsoever, which were then justly due and owing from him, and to whom, and for what, and on what security, if any, the same were respectively due, and whether carrying interest or not, and at what rate, and how much was due for interest thereof respectively, at the time of his death; and whether any and what sums or sum of money have or hath been since paid by you, or any or either, and which of you, in or towards discharge of all or any, and which of such debts, and when and to whom, and for what, and whether any and what sums or sum of money do, or doth now remain unpaid on account thereof? And set forth also a full and particular account of all and every other the sums or sum of money which have been, from time to time, really and actually paid by you, or any or either, and which of you, for or on account of the funeral expenses of the said Testator, J. B., or otherwise, in relation to
his

As to freehold and copyhold estates, and the rents and profits thereof.

his estate, since his death, and when and by whom, and to whom, and for what all and every such sums were respectively paid? Set forth, &c.

4th. Whether or no was the said Testator, J. B., at the time of his death, seized or otherwise, and how entitled to any and what freehold and copyhold estates? If yea, set forth a full, true, and just rental, description, and particular thereof, and the number of acres thereof respectively, and where the same, and every part thereof, is situate, and the yearly values of each particular thereof, and in whose tenure or occupation the same, and every part thereof, then was, or since has been, and now is, respectively, and under what leases or terms, if any, and at what yearly, or other rent or rents? And set forth also whether any and which of such estates, or any and what part thereof, have, since the death of the said Testator, J. B., been sold and disposed of, and when and where, and by and to whom, and for how much, every particular thereof hath been sold and disposed of, and whether at the full and utmost value thereof; and if not, why; and how and in what manner the money arising from the same hath been paid and applied? And set forth also a full, true, and particular account of all and every sum and sums of money which hath, and have been, from time to time, received by you, or any or either, and which of you, by any other person or persons, by your, or any or either, and which of your order, or for your or any, or either and which of your use, for or in respect of the rents and profits of the said freehold and copyhold estates, and every, or any part thereof, which were due and owing at the death of the said Testator, or have since become due, and when and by whom, and from whom, and for what all and every such sum and sums were respectively received? And whether any and which of such rents and profits are now in arrear; and if so, why?

As to what money received for principal and interest on bond.

5th. Whether or no have you been paid, or in any manner satisfied any part of the principal money of £ mentioned in the bond or obligation of T. B., the said Testator, bearing date, &c. or any part of the interest which hath accrued due thereon? If yea, set forth the particulars and amount of all and every sums or sum which you have been so paid or satisfied, and when respectively, and by whom, and in what manner.

To prove the Identity of a Person under a Marriage Settlement.

Between A. W. . . . Plaintiff.
and

C. M. . . . Defendant.

Interrogatories, &c.

1st. [Knowledge of the parties.]

*To prove birth
and baptism.*

2d. Do you know, and from what circumstances, when, and where the said Complainant A. W. was born and baptized? If yea, set forth the time and place of her birth and baptism, and the reason of your knowledge therein, and who were her father and mother, and where they usually resided at the respective times of the birth and baptism of the said Complainant, and what was their situation in life. Set forth, &c.

*To prove re-
gister of bap-
tism.*

3d. Look upon the paper-writing now produced, &c. Did you at any time, and when, and where, carefully examine the same with any entry thereof made in the register book of any, and what parish or place? If yea, whether or no is the same a true copy of such entry? Declare, &c.

*To prove mar-
riage settle-
ment.*

4th. Look upon the deed or writing now produced, &c. Whether or no was such deed or writing at any time, and when, signed, sealed, or delivered, in your presence, by any person or persons, and whom? And were you a subscribing witness to the signing, sealing, or delivery thereof, by such person or persons? And is your name, indorsed and set as a subscribing witness thereto, of your proper hand-writing? Declare, &c.

*To prove deed
or bond.*

5th. Look upon the bond or paper-writing now produced, &c. Whether or no was the said produced writing at any time, and when, signed, sealed, and delivered, or in any and what manner executed by any person, and whom, in your presence? And is your name, set and subscribed, as a witness thereto, of your proper hand-writing; or whether or no were you acquainted with any person or persons whose name or names appear to be set or subscribed to the said bond or paper-writing as a witness or witnesses thereto? And did you ever see such person or persons write, or were you by any, and what other means acquainted with the character or manner of hand-writing of such person or persons? And is or are the name or names of such person or persons, so set and subscribed to the said bond or paper-writing, of his, her, or their proper hand-writing? And whether or no is or are such person or persons now living or dead? And if dead, when, or where did he, she, or they die, as for any, and what reason, know or believe? Set forth, &c.

Lastly. [The general and usual interrogatory.]

In the Exchequer.

To prove what Issue are alive, and what Estate the Testator had.

Between, &c.

Interrogatories exhibited, &c.

1st. Interrogatory. Whether or no did you know S. J., the nephew of the Testator W. G., in the pleadings of this cause named, and for how long did you know him, and was he living or dead at the time of the death of the said Testator? And if dead, when, and where did he die, as you know or believe? Declare, &c.

2d. Whether or no do you know, and for how long have you known the Defendant J. P. the sister of the said Testator W. G., and her family? Whether or no were there any, and what children of the said Defendant J. P. living at the time of the death of the said Testator; and when did the said Testator die, and which of such children are now living, and what are their respective ages, and if any, or either of them has died since the Testator, and when did he, she, or they die? Declare, &c.

3d. Whether or no was the said Testator W. G., at the time of making his will, in the pleadings of this cause set forth, or at his death, seized of, or otherwise entitled to, or interested in any, and what freehold estates? If yea, set forth a full, true, and just description and particular of all and every such freehold estates, and what interest he had therein respectively, distinguishing such of them, if any, as he acquired after the making of his aforesaid will.

4th. What interest had the said Testator, at the time of his death, in the messuage or dwelling-house described, in his will, to be situate in M. street, within the village of, &c.? (*set forth the particulars at large.*)

5th. What interest had the said Testator, at the time of his death, in the messuage or dwelling-house, with the field and appurtenances in, &c. described in his said will to be in his own tenure? Set forth, &c.

Observations.—I should have thought that the remembrancer would have permitted these several facts to be ascertained by affidavits, which would be infinitely less expensive, and more expeditious, than a proceeding by interrogatories and commission.

It will be the office of the Defendants to file the interrogatories for the examination of the Plaintiff as to the personal estate of the Testator.

Interrogatories in a Tithe Cause as to the Vicar ; Moduses or Sums of Money paid in lieu of Tithes.

Interrogatories, &c. wherein D. C. is Complainant,
and

T. W. and L. W. are Defendants.

On the part of the Complainant.

1st. Interrogatory. Do you know the parties Complainant and Defendants, in the title of these interrogatories named, or any, or either, and which of them, and how long have you known them respectively ? And do you know the vicarage and parish of C., in the county of W., and chapelry of N. L., in the same county ? Is, or is not the said chapelry annexed to the said vicarage or parish, or is the same reputed so to be, and how long time hath the same been, or been reputed so to have been ? Declare, &c.

2d. Was not the Complainant, at or about any, and what time admitted, instituted, and inducted into the said vicarage of C. with the said chapelry of N. L. annexed, or how otherwise ? And hath he, or not, been during all, or any, and what part of the time since such time vicar of the said parish and chapelry ? Hath he, or not, during all, or any, and what part of the time, acted or officiated as vicar of the said parish or chapelry ? Declare, &c.

3d. Who is, or are reputed to be rector or rectors of the said parish of C., and of the said chapelry of N. L. ? Who is, or are, or who is, or are reputed to be entitled to the tithes of all kind of titheable matters and things, other than corn, grain, and hay, arising from lands within the said parish or chapelry, or the satisfaction for the same ? Whether the rector or the vicar of the said parish, &c. have the tithes of all, or any, and which of the several kinds of titheable matters and things, other than corn, grain, or hay, have been from time to time delivered to one, or which of them, the vicar or rector aforesaid, in particular, hath satisfaction for the same been from time to time paid ; or is it reputed that such tithes have been delivered, or that such satisfaction hath been made ? Declare, &c.

4th. Whether or no have you for any, and how long time lived within, or near, and how near to the said vicarage or parish of C., or the said chapelry of N. L. ? Have, or hath not the Defendants, or any, or either, and which of them, during all, or any, and what part of the time, since the month of _____, occupied any, and what lands, situate or lying within the said vicarage or parish of C., or of the said chapelry of N. L.,

N. L., and of which of them in particular? Have you or not for any, and how long time known all, or any, and which of such lands? If yea, set forth and describe the particulars thereof so occupied by each of them. Declare, &c.

5th. Whether are the tithes payable in kind, or reputed to be payable in kind, of, or for all, or any, and what kinds of titheable matters and things, other than corn, grain, and hay, arising on and from all, or any, and which of the lands in the occupation of the Defendants T. W. and L. W., or either, and which of them, within the said parish of C., or the said chapelry of N. L.; or is, or are any, and what certain or other sums or sum of money payable, or reputed to be payable, by the owners or occupiers of all, or any, and which of such lands, and when, and to whom, and in what manner, for, or in lieu of the tithes of all, or any, and what kind of titheable matters and things, arising on, or from all, or any, and which of such lands? If any such sums or sum of money is, or are so payable, or reputed to be payable, for, or in lieu of the tithes of all, or any titheable matters or things arising on, or from all, or any of such lands? How long hath, or have the same, or is it reputed that the same hath, or have been payable? Have you, or not, &c.

6th. Whether or no hath, or have any, and what yearly, or other sums or sum of money been constantly, or otherwise, and how from time to time paid by the owner or occupier of all, or any, and which of the lands in the occupation of the Defendants T. W. and L. W., or either, and which of them, situate or lying within the said parish or chapelry, and to whom, and for whose use, and for how long time, for, or in lieu of the tithes of, or for any, and what kinds of the titheable matters and things, other than corn, grain, and hay, which have arisen on, or from all, or any, and which of such lands? If yea, under what name or names, denomination or denominations, hath, or have each, and every, or any, or either, and which of such payments, been from time to time made and accepted, and in general considered as made and accepted, whereas an ancient established certain and invariable modus or moduses, and as being due, and having been payable from time whereof the memory of man is not to the contrary, and as the full and whole of what the vicar of the said parish was, by any means, demanded, for or in lieu of tithes of such titheable matters and things respectively, arising on such lands respectively, or as temporary compositions only, or under particular agreements from time to time made
with

with the vicar of the said parish for the time being? Hath, or have, or not, tithes been delivered, or is it reputed in the said parish or chapelry, or the neighbourhood thereof, that tithes have been delivered in kind, and how often, and when, and about what times or time, and by whom, and to whom, and from whom, of, or for all, or any, and what kinds of titheable matters and things, other than corn, grain, and hay, which arose on, or from all, or any, and which of such lands? Have or not the sums or sum of money which have, or hath been from time to time paid for or in lieu of the tithe of all, or any, and which of such matters or things, other than corn, grain, and hay, arising on or from all, or any, and which of such lands, been at any, and what time or times, and how often, and in what manner, and on what occasion, altered or varied? Have you or not, &c.?

7th. Whether or no are the whole, or any, and what parts of the lands lying with the said chapelry of N. L., commonly called oxgangs of land, or divided into oxgangs, or estimated, with respect to their quantity, as being any particular number of oxgangs; or is the term oxgang otherwise, and how made use of or applied to all, or any, and which of such lands? Whether are the tithes payable in kind, or reputed to be payable kind, of, or for all, or any, and what kinds of titheable matters and things, other than corn, grain, and hay, arising on, or from all, or any, and which of the lands lying within the chapelry of N. L., which are commonly called oxgangs, and which are generally estimated by number of oxgangs, or to which the term oxgang is generally applied; or is, or are any, and what certain or other sums or sum of money, &c.? *(take the 5th interrogatory from these words to the end.)*

8th. Whether or no hath or have any, and what yearly or other sum or sums of money after any, and what particular rate per oxgang, or by any, and what other particular quantity, or how otherwise, been constantly, or otherwise, and how, from time to time, paid by the owners of all, or any part, which of the lands in the said chapelry of N. L. which are commonly called oxgangs, or which are generally estimated by number of oxgangs, or to which the term oxgang is generally applied, and to whom, or for whose, &c.? *(take the 6th interrogatory from these words to the end.)*

Interrogatories to prove an Agreement to receive a certain Sum in lieu of Tithes.

Interrogatories to be administered to witnesses, to be produced, sworn, and examined in a certain cause now depending in the High Court of Chancery, wherein T. L., esq. is Complainant,
and

F. H. V. is Defendant.

On the part and behalf of the Complainant, as follows :

To prove the signing of the agreement in , and under what circumstances.

1st. [Knowledge of the parties.]

2d. Look at the paper-writing, or agreement, now produced and shewn to you at this the time of your examination, marked with the letter A. Whether or no is your name, appearing to be set and subscribed thereto for the said Defendant, of your proper hand-writing? If yea, when did you set and subscribe the same thereto? And whether or no had you the instruction or direction of the said Defendant to sign such paper, or any such paper, or to make any such agreement, or any other, and what agreement with the said Complainant respecting the said tithes? Or did you at any time, and when, previously inform him, or intimate to him, that you would, on his part, sign such paper, or make any agreement to any such, and what effect, with the said Complainant; and did he approve of such your intention, or how otherwise? Or did you at any time, and when, first afterwards inform him, or in any, and what manner intimate to him, that you had signed such paper, or made such agreement, or any agreement to any such effect with the said Complainant? And did he approve thereof, or how otherwise; or by what authority, and with what intention, did you so sign or subscribe the said paper-writing, or agreement? Set forth, &c.

To prove the payments made by Mr. G. as agent for the Defendant, for the tithes of and , and the request made by Mr. G., on the part of the Defendant, to be admitted into the usual annual agreement.

3d. Whether or no did you ever, and when, pay to the said Complainant any, and what sum or sums of money in respect of the tithes of the said Defendant in the parish of B., for the years and , or either, and which of such years? And whether or no by the instruction or direction of the said Defendant, or how otherwise? And whether or no did you, at the time of such payment or payments, or any of them, or at any other time or times, and when, request or apply to the said Complainant to admit the said Defendant, for the year , into the annual agreement that the said Complainant was in the practice of making with the occupiers of land in the said parish of B., or some of them, by way of composition for their tithes in the said parish, or make any request or application to any such,

such and what effect; and whether or no did you make such request or application by the instruction or direction of the said Defendant, or did you previously inform him, or intimate to him that you would make such request or application on his part, or did you at any time, and when, first afterwards inform him thereof, and did he approve thereof, or how otherwise? Set forth, &c.

4th. This interrogatory the same as the second, except as to dates.

, and under what circumstances.

5th. Whether or no did you, at any time or times, and when respectively, pay to the said Complainant the sums which became due from the said Defendant for his tithes in the said parish of B., for the years and , or either and which of them; and whether or no was or were the sum or sums so paid by you computed according to the said paper writings and agreements marked A. and B., or either and which of them, as you, for any and what reason, know or believe; and whether or no did you make such payment or payments by any draft or drafts of the said Defendant, or in what other manner; and whether or no with the monies of the said Defendant; and whether or no, by his instructions or directions, or with his knowledge and approbation, or how otherwise? Set forth, &c.

6th. Whether or no did the said Complainant, at the time you made the payment of the tithes of the said Defendant, for the year , request you to inform the said Defendant that he would not permit you to sign, on his part, the annual agreement for the year , but that the said Defendant must set out his tithes in kind, or to any such and what effect; and whether or no did you so inform the said Defendant; and if not, why? Set forth, &c.

Lastly. [The common and usual interrogatory.]

Interrogatories to ascertain various Titheable Matters, &c.

Between T. H. F. . . . Plaintiff,
and
T. P. and others, . . . Defendants.

Interrogatories exhibited on behalf of the Complainant, before, &c. (the usual title.)

To ascertain
if the Defend-

1st. Interrogatory. Whether or no did any, or either and which of you, at any time between the month of

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and

ants occupied other lands besides those specified in the decree, and the quantities of those lands so specified the time of filing the bill.

To ascertain the produce grown upon the lands in the occupation of the Defendants, and the value thereof.

To ascertain the quantities of wool and lambs.

and the day of , hold and occupy any lands within the rectory and parish of B. R., in the county of E., in the pleadings of this cause mentioned, or the titheable places thereof, other than the several lands which in the decree made in this cause are mentioned to be in your respective occupations, and which are herein-after stated; that is to say, the lands called, &c. in the said decree stated to be in the occupation of the Defendant, T. P.? If yea, set forth respectively a full, true, and particular account and description of all such other lands, and when and for how long respectively between the times aforesaid, the same were so held and occupied by you, and the quantities thereof respectively? And set forth also a full, true, and particular account of the respective quantities of the said several lands mentioned in the said decree, to be respectively occupied by you.

2d. Set forth a full, true, and particular account of the purpose and purposes to which all and every the lands mentioned in the said decree, and hereinbefore specified, and all other the lands in the said rectory and parish, and the titheable places thereof, which have been held and occupied by you respectively, between the times aforesaid, have in each year, between the said times, been respectively applied in cultivation. And also a full, true, and particular account of all and every the quantities and qualities of the wheat, barley, oats, peas, beans, and other grain and hay, and hay-grass, hemp, flax, and other produce whatsoever, which have, in each of the said years, been reaped, cut, had, taken, and carried away from all and every the aforesaid lands respectively, and the true and utmost values thereof respectively in each of the said years, distinguishing particularly between the produce of the aforesaid lands specified in the said decree, and the other lands occupied by you respectively within the said rectory and parish, and the titheable places thereof.

3d. Set forth a full, true, and particular account of the number of ewes, and other sheep, which in each of the years between the times aforesaid, have been kept and depastured on the said several lands mentioned in the said decree, and hereinbefore specified, and on all other lands within the said rectory and parish, and the titheable places thereof, which have been held and occupied by you respectively, between the times aforesaid. And also a full, true, and particular account of the number of such ewes, and other sheep, which have, in each of the said years, been shorn, and produced lambs, and the quantities of wool and the number of lambs which such ewes and other sheep have, in each of such years, yielded, and the true and utmost values
of

of such wool and lambs respectively, distinguishing, as in the last interrogatory mentioned, between the lands specified as aforesaid in the said decree, and the other lands occupied by you respectively within the said rectory and parish, and the titheable places thereof.

To ascertain the number of barren and unprofitable cattle depastured, and the value of the agistment.

4th. Set forth a full, true, and particular account of the number of sheep not producing lambs or wool in the said rectory or parish, or kept after shearing time, and of the number and kinds of all other barren and unprofitable cattle which have, in each of the years, between the times aforesaid, been kept, fed, agisted, or depastured on the said several lands mentioned in the said decree, and hereinbefore specified, and on all other the lands within the said rectory and parish, and the titheable places thereof, which have been held and occupied by you respectively, between the times aforesaid, and for how long respectively such sheep and other cattle were so kept, fed, agisted, or depastured; and also a full, true, and particular account of the profits made by the agistment of such sheep and other cattle respectively, so far as the same were agisted for hire, and of the value of the feed and agistment of such other sheep and other cattle respectively, distinguishing, as in the 3d interrogatory mentioned, between the said lands specified in the said decree, and the other lands occupied by you respectively within the said rectory and parish, and the titheable places thereof.

To ascertain the number of calves, colts, and pigs, and the quantities of milk and honey.

5th. Set forth a full, true, and particular account of the number of cows producing calves or milk, and the number of mares producing foals, and the number of sows producing pigs, and the number of hives of bees which, in each of the years between the times aforesaid, have been kept by you respectively on the said several lands specified in the said decree, and on all other the lands occupied by you respectively, within the said rectory and parish, and the titheable places thereof, and the number of calves, colts, and pigs, and the quantities of milk and honey which such cows, sows, and bees, have, in each of the said years respectively produced, and the true and utmost values of the same respectively, distinguishing as aforesaid.

To ascertain the quantities of garden-stuff and fruit.

6th. Set forth a full, true, and particular account of the potatoes, turnips, and other garden-stuff, and the apples, pears, cherries, plumbs, and other fruit, which, in each of the years between the times aforesaid, have been taken or gathered from the said several lands specified in the said decree, and all other the lands occupied by you respectively within the said rectory and parish, and the titheable places thereof, and the true

and utmost values of the same respectively, distinguishing as aforesaid.

General inquiry after other titheable matters.

7th. Whether or no have you, or any, or either, and which of you, between the times aforesaid, had or taken any titheable matters and things whatsoever, not hereinbefore mentioned and inquired after, from the lands respectively occupied by you within the said rectory and parish, and the titheable places thereof? If yea, set forth a full, true, and particular account of such other titheable matters and things which, in each of the said years between the times aforesaid, have been so had and taken by you respectively, and the true and utmost values thereof respectively, distinguishing as aforesaid.

To prove presentation and induction.

8th. Look upon the paper or parchment-writing now produced or shewn to, or by you, at this, &c. Whether or no was the said produced writing at any time, and when, signed, sealed, and delivered, or in any, and what manner executed by any person, and whom, in your presence; and is your name, set and subscribed as a witness thereto, of your proper hand-writing? Declare, &c.

*To prove the letters of institution by the bishop's officer.**

9th. Look upon the paper or parchment-writing now produced and shewn to, or by you, at this the time, &c. Whether or no is the seal, appendant thereto, the proper seal of the bishop of ; and did the said Complainant receive institution, according to the effect thereof, at any time, and when, and from whom? Declare, &c.

To prove the mandate of induction and indorsement thereon, and also the fact of induction.

10th. Look upon the paper or parchment-writing now produced, &c. Whether or no is the seal appendant thereto, the proper seal of the bishop of ; or is the name, set and subscribed thereto, the proper hand-writing of the said bishop, and was the same so set and subscribed in your presence; and is your name, set and subscribed as a witness thereto, of your proper hand-writing; and of whose hand-writing is in the indorsement on the back of the said writing; and was the same written in your presence; and is your name, subscribed as a witness thereto, of your proper hand-writing? Whether or no was the said Complainant at any time, and when, and by whom, inducted into the possession of the parish church of, &c. in your presence, and in the presence of any other person or persons, and whom, under and by virtue of such mandate? Declare, &c.

Interrogatories to prove Titheable Matters on Lands of Defendants.

Between, &c.

Interrogatories exhibited, &c. (*usual title before a Muster.*)

1st. Interrogatory. Set forth a full and particular account of all the hay which your late father J. C. deceased, had in each year from , in the year , to , in the year , both inclusive, from grass cut in each on lands in his occupation, within the parish of T., in the county of G. How much per load was the hay which the said J. C. so had, in each of such years, worth to be sold, and how much was the whole of such hay, which the said J. C. had in the parish in each of such years, worth at an average, and taking one year with another? Set forth the matters inquired after, according to the best of your remembrance, information, and belief, and as fully, and as near as you are able, from your memory or belief, or otherwise.

2d. Set forth a full and particular account of the potatoes, garden-stuff, and fruit, which the said J. C. had plucked, gathered, and received in each year, and the quantity of each sort in each year, at an average, and taking one year with another; and set forth the full value of each of such kinds of produce which the said J. C. so had, &c. on such lands in each of such years, at an average, and taking one year with another. Set forth, &c.

3d. Set forth a full and particular account of all the barren and unprofitable cattle which the said J. C., from time to time, had, kept, fed, or depastured on any lands, in his occupation, within the said parish of T., from the year to the year , both inclusive, and the kinds of all such cattle, and the number of each kind, and how long they were respectively so kept, fed, and depastured on any such lands, and on what lands in particular the same were so, from time to time, kept, fed, and depastured respectively, and the number of each of such kinds of cattle which the said J. C. so kept, fed, and depastured on any such lands in each year, at an average, and taking one year with another; what was the value of the feed or agistment of each of such kinds of cattle on such lands in each year, and what was the value of the feed or agistment of them, at an average, and taking one year with another? Set forth, &c.

4th. What number of persons, at the most, of above the age of years, had the said J. C. in his family, in the parish of T., in each year, from the year

year to the year , both inclusive; or what number of persons had the said J. C. in his family, in the said parish, in each of such years, at an average, and taking one year with another? Set forth, &c.

5th. Set forth how many meals of milk the said J. C. had, in the said parish of T., in each morning, and also in each evening, in the several years from the year to the year , both inclusive, and taking one morning with another, and one evening with another; and the quantity of milk which was in each morning's meal, and also in each evening's meal, at an average, &c.; and what was the value of each of such mornings' meals during such times, and each of such evenings' meals during such times, at an average, and taking, &c.? Set forth, &c.

6th. Did the said J. C., or any person or persons on his behalf, at any time or times, deliver to, or for the use of the Complainant, or set out in any, and what manner, any quantity of each, or any, or either, and which of the several kinds of titheable matters inquired after in each, or any, either, and which of the 1st, 2d, and 5th interrogatories, as or for the tithe thereof, or of any part thereof respectively? If yea, set forth all the several kinds which were so delivered, and the quantities of each kind, and when, and by whom, and to whom, the same were respectively so delivered, and in what manner, and as and for the tithes of what particular quantity of such respective kinds of titheable matters and things, and whether all the particulars so delivered, or set out in as good plight and condition as the same were when the same were originally produced, or whether any, and what particulars or kinds thereof, and what quantities of each were then in any, and what degree, and in what manner, and by what means, spoiled or damaged, or in a worse condition than when the same were originally produced. Were all the particulars which were so set out accepted, or which of them was refused to be accepted, and for what reason? Set forth, &c.

7th. Did the said J. C., or any, and what person on his behalf, at any time or times, pay to Plaintiffs, or any, and what person or persons, for his use, or on his behalf, any sum or sums of money in or towards satisfaction of or for the tithes, or of, or for all, or any, and which of the titheable matters and things inquired after in the 1st, 2d, 3d, and 5th interrogatories? And whether or not in or towards satisfaction of or for the said J. C.'s Easter offerings? If yea, set forth the particulars of all the sums which were so paid, and when, and about what time or times, and by whom, and to whom, and for what in particular all such sums were respectively so paid. Set forth, &c.

In

Interrogatories as to Titheable Matters.

In the Exchequer.

Between T. W., clerk, . . . Plaintiff,
and
J. M., esq. . . Defendant.

Interrogatories exhibited, on behalf of the said Complainants, before A. M., esq. deputy remembrancer of this honorable Court, to whom this cause stands referred for the examination of the said Defendant, pursuant to the decree made in this cause, bearing date the day of .

1st. Interrogatory. Set forth a full, true, and particular account and description of all lands which have been holden and occupied by you, within the parish of L., and the titheable places thereof, since the day of , or are now holden and occupied by you; and if any of such lands have not been holden and occupied by you for the whole of the time since the said day of , then set forth for how long respectively such lands have been so holden and occupied by you; and set forth also the quantities of all and every of such lands, and how the same, and every part thereof, have, at all times, since the time aforesaid, been respectively applied in cultivation. Set forth, &c.

2d. Set forth a full, true, and particular account of all and every the quantities of wheat, barley, oats, peas, beans, and other grain and hay, and hay-grass, and other produce whatsoever, which have, in each year since the time aforesaid, been reaped, cut, had, taken, or carried away from all and every such lands respectively, and the true and utmost values thereof respectively, in each of the said years, except as to such parts thereof in respect of which the tithes have been duly rendered to the Complainant. Set forth, &c.

3d. Set forth a full, true, and particular account of the number of ewes, and other sheep, which, in each year since the time aforesaid, have been kept and depastured on the said several lands; and also a full, true, and particular account of the number of such ewes, and other sheep, which have, in each of the said years, been shorn, and have produced lambs, and the quantities of wool, and the number of lambs which such ewes, and other sheep, have, in each of the said years yielded, and the true and utmost value of such wool and lambs respectively; and also a full, true, and particular account of the number of cows producing calves or milk, and the number of mares producing foals, and the number of sows producing pigs, and the number of hives of bees which, in each of the said years since the time aforesaid, said,

said, have been kept by the said Defendant on the said several lands, and the number of calves, colts, and pigs, and the quantities of milk and honey which such cows, mares, sows, and bees have, in such of the said years, been respectively produced, and the true and utmost values of the same. Set forth, &c.

4th. Set forth a full, true, and particular account of the number of sheep not producing lambs or wool within the said parish, or kept after shearing time, and of the number and kinds of all other barren and unprofitable cattle which, from time to time, in each year since the time aforesaid, have been kept, fed, agisted, and depastured on the said several lands, and the kinds of all such cattle, and the number of each kind, and for how long respectively, and on what lands in particular such sheep, and other cattle were so kept, fed, agisted, and depastured, and also a full, true, and particular account of the profits made by the agistment of such sheep, and other cattle respectively, so far as the same were agisted for hire, and of the value of the feed and agistment of such other sheep, and other cattle respectively. Set forth, &c.

5th. Set forth a full, true, and particular account of the potatoes, turnips, and other garden stuff, and the apples, pears, cherries, plumbs, and other fruit, which, in each year since the time aforesaid, have been taken, gathered, and received from the said several lands, and the true and utmost value of the same respectively. Set forth, &c.

6th. Whether or no have you, since the time aforesaid, had or taken away any titheable matters and things whatsoever, not hereinbefore mentioned and inquired after, from the said several lands? If yea, set forth a full, true, and particular account of such other titheable matters and things which, in each year since the time aforesaid, have been so had and taken by you, and the true and utmost values thereof respectively. Set forth, &c.

Interrogatories as to various Titheable Matters.

Between T. H. F. . . . Complainant,
and
J. Q. P. and others, . . Defendants.

Interrogatories exhibited on behalf, &c. (*the usual form*).

*To ascertain
if the Defendant
occupied*

1st. Interrogatory. Whether or no, did any, or either, and which of you, at any time between the month of , and the day of , hold and occupy

other lands besides those specified in the decree, and the quantities of those lands so specified.

To ascertain the produce grown upon the lands in the occupation of the Defendant, and the value thereof.

To ascertain the number of sheep and lambs and quantity of wool.

cupy any lands within the rectory and parish of, &c. in the pleadings of this cause mentioned, or the titheable places thereof, other than the several lands which, in the decree made in this cause, are mentioned to be in your respective occupations, and which are hereinafter stated, (that is to say) the lands called, &c. &c. (set out the different names)? If yea, set forth respectively a full, true, and particular account and description of all such other lands, and when, and for how long respectively between the times aforesaid the same were so held and occupied by you, and the quantities thereof respectively. And set forth also a full, true, and particular account of the respective quantities of the said several lands mentioned in the said decree to be respectively occupied by you.

2d. Set forth a full, true, and particular account of the purposes to which all and every the lands mentioned in the said decree, and hereinbefore specified, and all other the lands in the said rectory and parish, and the titheable places thereof, which have been held and occupied by you respectively, between the times aforesaid, have, in each year between the said times, been respectively applied in cultivation. And also a full, true, and particular account of all and every the quantities and qualities of the wheat, barley, oats, peas, beans, and other grain, hay, and hay-grass, hemp, flax, and other produce whatsoever, which have in each of the said years been reaped, cut, had, taken, or carried away from all and every the aforesaid lands respectively, and the true and utmost values thereof respectively in each of the said years, distinguishing particularly between the produce of the aforesaid lands specified in the said decree, and the other lands occupied by you respectively within the said rectory and parish, and the titheable places thereof.

3d. Set forth a full, true, and particular account of the number of ewes, and other sheep, which in each of the years between the times aforesaid, have been kept and depastured on the said several lands mentioned in the said decree, and hereinbefore specified; and on all other lands within the said rectory and parish, and the titheable places thereof, which have been held and occupied by you respectively between the times aforesaid; and also a full, true, and particular account of the number of such ewes, and other sheep, which have, in each of the said years, been shorn, and have produced lambs; and the quantities of wool, and the number of lambs which such ewes, and other sheep, have, in each of such years, yielded, and the true and utmost values of such wool and lambs respectively, distinguishing, as in the last interrogatory

To ascertain the number of barren and unprofitable cattle depastured, and the value of the agistment.

interrogatory mentioned, between the lands specified as aforesaid in the said decree, and the other lands occupied by you respectively, within the said rectory and parish, and the titheable places thereof.

4th. Set forth a full, true, and particular account of the number of sheep not producing lambs or wool, or kept after shearing time, and of the number and kinds of all other barren and unprofitable cattle which have, in each of the years between the times aforesaid, been kept, fed, agisted, or depastured on the several lands mentioned in the said decree, and hereinbefore specified; and on all other the lands within the said rectory and parish, and the titheable places thereof, which have been held and occupied by you respectively, between the times aforesaid, and for how long respectively such sheep and other cattle were so kept, fed, agisted, or depastured; and also a full, true, and particular account of the profits made by the agistment of such sheep and other cattle respectively, so far as the same were agisted for hire, and of the value of the feed and agistment of such sheep, and other cattle respectively, distinguishing, as in the 3d interrogatory mentioned, between the said lands specified in the said decree, and the other lands occupied by you respectively, within the said rectory and parish, and the titheable places thereof.

To ascertain the number of calves, colts, and pigs, and the quantities of milk and honey.

5th. Set forth a full, true, and particular account of the number of cows producing calves or milk, and the number of mares producing colts, and the number of sows producing pigs, and the number of hives of bees, which, in each of the years between the times aforesaid, have been kept by you respectively, on the several lands specified in the said decree, and on all other the lands occupied by you respectively, within the said rectory and parish, and the titheable places thereof, and the number of calves, colts, and pigs, and the quantities of milk and honey, which such cows, mares, sows, and bees, have, in each of the said years respectively, produced, and the true and utmost values of the same respectively, distinguishing as aforesaid.

To ascertain the quantity of garden stuff, and other fruit.

6th. Set forth a full, true, and particular account of the potatoes, turnips, and other garden stuff, and the apples, pears, cherries, plumbs, and other fruit, which, in each of the years between the times aforesaid, have been taken or gathered from the said several lands specified in the said decree; and all other the lands occupied by you respectively within the said rectory and parish, and the titheable places thereof, and the true and utmost value of the same respectively, distinguishing as aforesaid.

7th. Whether

General inquiry after other titheable matters.

7th. Whether or no have you, or any, or either, and which of you, between the times aforesaid, had, or taken, any other titheable matters and things whatsoever, not hereibefore mentioned and inquired after, from the lands respectively occupied by you within the said rectory and parish, and the titheable places thereof? If yea, set forth a full, true, and particular account of such other titheable matters and things which, in each of the said years between the times aforesaid, have been so had and taken by you respectively, and the true and utmost values thereof respectively, distinguishing as aforesaid.

Last interrogatory.

Interrogatories to prove Boundaries of a Parish, and to what Parish Rates and Tithes have been paid.

Interrogatories to be administered to W. W. a witness to be produced, sworn, and examined *de bene esse*, in a certain cause now depending in the High Court of Chancery, wherein
A. B. is Complainant,
and

C. D. is Defendant,

On the part of the Plaintiff.

1st. Interrogatory. Do you know, &c.

To prove boundaries and division of parishes.

2d. Whether or no do you, and how long have you, lived in the parish of W. in the county of , and whether or no did you, at any time or times, and when, attend any and what public perambulations of the said parish; or are you by any and what other means acquainted with the boundaries of the said parish, and in particular with the boundary or division between the said parish, and the parish of C. and how, and in what manner is the said parish of W. divided from the said parish of C.? Declare, &c.

To prove in what parish the lands are situate, and to what parish such lands have paid poor's rates, and tithes.

3d. Whether or no do you know, and for how long have you known two pieces of land, called the Forty Acres, which are now in the occupation of R. B. of the said parish of W. farmer? If yea, within what parish are the said two pieces of land situate, as you know, or for any and what reason or reasons, believe; and whether or no, have you ever, and when, heard from any person or persons, and whom, who are now dead, within what parish the said two pieces of land are situate? and whether or no do you know to what parish the poor's rates or tithes have been paid for the said two pieces of land, and when, and by whom, and to whom? Declare, &c.

Lastly. [The usual interrogatory.]

Differet

Different Interrogatories useful in Tithe Causes.

To prove payment of money, and by whose direction.

1st. Interrogatory. Whether or no did you ever, and when, pay to the said Complainant any, and what, sums or sum of money, in respect of the tithes of the said Defendant, in the parish of B. for the years , or , or either, and which of such years, and whether or no, by the instruction or direction of the said Defendant, or how otherwise; and whether or no did you, at the time of such payment or payments, or any of them, or at any other time or times, and when, request or apply to the said Complainant, to admit the said Defendant for the year , into the annual agreement that the said Complainant was in the practice of making with the occupiers of land in the parish of B. or some of them, by way of composition for their tithes in the said parish, or make any request or application to the said Complainant, to any such, and what effect; and whether or no did you make such request or application by the instruction or direction of the said Defendant, or did previously inform him, or intimate to him that you would make such request or application on his part, or did you, at any time, and when first afterwards inform him thereof, and did he approve thereof, or how otherwise? Set forth, &c.

To prove whether money was paid according to written agreement, and whether by drafts or otherwise.

2d. Whether or no did you, at any time or times, and when respectively, pay to the said Complainant, the sums which became due from the said Defendant for his tithes in the said parish of B. for the years and , or either, and which of them; and whether or no, was, or were, the sum or sums so paid by you, computed according to the said paper-writings and agreements marked A. and B. or either, and which of them, as you, for any and what reason, know or believe; and whether or no did you make such payment or payments by any draft or drafts of the said Defendant, or in what manner, and whether or no, with the monies of the said Defendant; and whether or no by his instructions or directions, or with his knowledge or approbation or how otherwise? Set forth, &c.

Notice to set out tithes in kind.

3d. Whether or no did the said Complainant, at the time you made the payment for the tithes of the said Defendant for the year , request you to inform the said Defendant that he could not permit you to sign, on his part, the annual agreement for the year , but that the said Defendant must set out his tithes in kind, or to any such, and what effect, and whether or no did you so inform the said Defendant, and if not, why? Set forth, &c.

To

To prove that he has known the parish of B. and the lands in question all his life.

To prove that, as farmer or lessee, he was entitled, from to to receive all such tithes, and all customary payments within, &c.

To prove, that during the time he was lessee, he received no tithes, and that he duly received the modus.

To prove that he was informed, at the time he became farmer, that there was a modus only payable for C. and that a book was delivered to him that mentioned this.

4th. Whether or no have you, for many years, and how long in particular, known the parish of B. in the county of C. and certain lands there; called, &c. situate within the townships of C. in the said parish of B.? Declare, &c.

5th. Whether or no did you, at any time, and when, and under whom, and in what manner, become entitled, as farmer or lessee, or how otherwise, to have and receive the small, or any and what tithes, arising, growing, and renewing within the said parish of B. or any and what township thereof, and in particular within the said township of C. or to have or receive the moduses or customary payments, made or rendered in lieu of tithes within the said parish, or any and what township thereof, and in particular within the said township of C. and for how long did you continue entitled, as such farmer, lessee, or otherwise, to such tithes, produce, or customary payments? Declare, &c.

6th. Whether or no, during the time you was entitled, as such farmer, lessee, or otherwise, to the tithes, moduses, or customary payments, in the former interrogatory inquired after, did you, at any time or times, and when, receive any, and what tithes, and from whom, for or in respect of the said lands called, &c. or any and what part thereof, and if not, why? And whether or no did you, during such time, or for any and what part thereof, and from whom, receive any, and what modus, or yearly customary payment, or render, for or in lieu of all, or any, and which of the tithes arising, growing, or renewing, in and upon the said lands called C. or any and what part thereof, and at what period of the year was such modus, or customary payment, or render, payable? Declare, &c.

7th. Whether or no, at the time you commenced such farmer or lessee of the said tithes, moduses, or customary payments, did you understand, or was you informed by the person from whom you leased or farmed the same, or from the agent, or other person, with whom you treated for the same, or from any other person or persons, and whom, that the said lands, called C. paid any, and what modus or customary payment, or render, for or in lieu of all or any, and which of the tithes, arising, growing, and renewing thereon? And whether or no was any book or paper delivered to you by any person, and whom, as instructions for the collections of the said tithes or moduses, or customary payments, which were so leased to you; and did the said book or paper make any, and what mention, of any modus or customary payment, for or

in lieu of all or any, and which of the tithes arising from the said lands called C.; and what hath become of the said book or paper, and when did you last see the same, and where; and did such book or paper appear to have been anciently written, or how otherwise? And what yearly rent did you pay, as such farmer or lessee of the said tithes, moduses, or customary payments; and whether or no, when you consented or agreed to pay such rent, did you consider that you were to be entitled, as such farmer or lessee, to any, and what tithes in kind, from the said lands called C. or only to some, and what, modus or customary payment; and whether or no would you have agreed to give a large rent, as such farmer or lessee as aforesaid, if you had considered yourself to be entitled to the same tithes in kind from the said lands called C. as you had and received from the other lands in the parish of B.? Declare, &c.

To prove that, during the time he was farmer, no other person took tithes in kind, or any modus for the said lands.

8th. Whether or no, during the time you was such farmer or lessee as aforesaid, were there any, and what, titheable matters and things arising, growing, and renewing in and upon the lands called C. and whether or no, as you know, or for any, and what reason believe, did any person, and whom, and in what character, and for whom, ever, and when, have, or take, or demand, during the time you was such farmer or lessee as aforesaid, any, and what tithes in kind, from the said lands, or any, and what part thereof, or any modus or customary payment in lieu thereof, other than yourself, &c.?

To prove the reputation that the lands are not titheable, and the quantities and boundaries.

9th. Whether or no did you ever, and when, hear from any person or persons, and whom in particular, who is or are now dead, any thing respecting the said lands, called C. being titheable or not titheable, for the great or small tithes, or being subject or not subject to any, and what modus, or customary payment in lieu thereof? If yea, set forth the particulars of what you have so heard, and whether or no can you tell what quantity, or about what quantity, of acres the said lands called C. consist of? And do you know the boundaries of the said lands, or any part thereof? And if yea, set forth the same to the best of your knowledge, recollection, and belief. Declare, &c.

To prove two receipts mentioned in letter.

10th. Look upon the paper-writings now produced, &c. Whether or no was such produced writings, or either and which of them, or any and what part thereof, or the name H. P. appearing to be set and subscribed thereto, of your proper handwriting; and whether or no did you duly receive the several sums therein respectively mentioned, or any and

To prove receipts signed by other lessees, if any.

and which of them, according to the purport and effect of the said paper-writings, or either of them?

11th. Look upon the paper-writings now produced, &c. Whether or no are you by any, and what means, acquainted with the character and manner of hand-writing of , whose names appear to be set and subscribed thereto respectively, and are such produced writings, or either, and which of them, or any, and what part thereof, or the names , appearing to be set and subscribed thereto, of the proper hand-writing of such persons respectively, or how otherwise? Whether or no are such persons respectively, or either, and which of them, as you, for any and what reason, know and believe, farmers or lessees of any, and what tithes, arising, growing, and renewing within the said , or any, and what township thereof, at the times such receipts respectively bear date? Declare, &c.

Interrogatories to prove the Delivery of a Notice.

Interrogatories to witnesses, &c. wherein G. C. is Complainant, and

T. D. J. A. and S. his wife, &c. &c. are . . Defendants.

On the part and behalf of the Complainant, as follows:

1st. [Knowledge of the parties.]

To prove Mr. R.'s letter of, &c.

2d. Look upon the paper-writing now produced and shewn to you, at this the time of your examination, marked with the letter A. Of whose hand-writing is the said paper-writing, and the name R. R. set and subscribed thereto, and the superscription or direction thereof, as you know, or for any, and what reason, believe, who acted as the solicitor or solicitors of the said Complainant, with respect to the purchasers in the said bill of complaint; and whether or no did the said R. R. in any, and what manner, act with respect to the said purchases, on the part and behalf of any, and which of the said Defendants? Declare, &c.

To prove the notice given.

3d. Look upon the paper-writing now produced, &c. B. Of whose hand-writing is the said paper-writing, and the signature thereto, and the superscription thereof? Whether or no was the said paper-writing sent to the said Complainant, or any person, and whom, on his behalf, at any time, and when, by you, or by your direction? And whether or no was you employed as the

the solicitor or attorney of the said Defendants R. R. and C. his wife, and R. W. or any, or either, or which of them, in the matter of the purchases made by the said Complainant, and in the said bill mentioned? Declare, &c.

Lastly. [The usual one.]

Interrogatories to prove what passed at the Purchase of an Estate.

Interrogatories to be administered to witnesses to be produced, sworn, and examined, in a certain cause depending in the High Court of Chancery, wherein J. E. is . Complainant,
 and

P. H. is Defendant.

On the part and behalf of the Complainant as follows :

1st. Interrogatory. Do you know the parties, Complainant and Defendant, in the title of these interrogatories named, or either, and which of them respectively? Declare the truth, and your knowledge herein.

2d. Whether or no were you, at any time or times, and when, previous to the agreement between the said Complainant and the said Defendant, respecting the purchase, by the said Defendant, of the house and premises of the said Complainant at, present at any conversation or conversations which passed between the said Complainant and the said Defendant, upon the treaty for the said purchase? If yea, set forth the particulars of such conversations, and what was said therein by the said Complainant to the said Defendant, respecting his title to the said premises; and whether any thing, and what was said by the said Complainant to the said Defendant, as to the title to the newly inclosed ground in front of the said premises; set forth all and every the matters and things aforesaid, according to the best of your knowledge, remembrance, information, and belief.

3d. Whether or no, at any time, and when, after the agreement between the said Complainant and the said Defendant, respecting the said purchase, did the said Defendant desire you to communicate to the said Complainant any proposal, on his part, as to his being released from the said agreement? If yea, set forth the particulars of such proposal, and when, and upon what occasion the said Defendant made the same? Set forth, &c.

Lastly. Do you know of any other matter or thing, or have you heard, or can you say any thing touching the

the matters in question in this case, that may tend to the benefit and advantage of the Complainant in this cause, besides what you have been interrogated unto? Declare the same fully and at large, as if you had been particularly interrogated thereto.

Interrogatories to prove the Sale of Premises by Auction, and the Agreement thereto.

Interrogatories to be exhibited to witnesses, &c.
 wherein J. B. is . . . Complainant.
 and
 R. B. is . . . Defendant.

On the part and behalf of the Complainant, as follows :

1st. Interrogatory. Do you know the parties, Complainant and Defendant, in the title of these interrogatories named, or either, and which of them, and how long have you known them, or either, and which of them? Declare the truth, and your knowledge herein.

2d. Whether or no did you, or any person, and whom, in partnership with you, at any time, and when, and by whose order or authority, cause the premises in the pleadings in this cause mentioned amongst others, to be advertised for sale by auction, and whether or no did you, or any person, and whom, in partnership with you, at any time, and when and where, and by whose order or authority, put up the said premises to sale by public auction, and were the same described as lot 1. or as what other lot at the said auction; and whether or no did any and what conversation pass between you and the said Defendant, previous to the said lot being put up, as to the price at which the same should be sold, and whether or no did the said Defendant bid for the said lot, and how much, and to whom was the said lot knocked down, and at what price; and was it so knocked down fairly and *bonâ fide*, or how otherwise? And had the said Defendant any time or opportunity to make a further bidding; and did the said Defendant, when the same was so knocked down, publicly or otherwise, and how, object thereto, or when first did the said Defendant object to the said sale? Set forth, &c.

To prove the memorandum or receipt signed by auctioneer.

3d. Look upon the paper-writing now produced, &c. of whose hand-writing is the said paper writing, and every part thereof, and in particular the signatures of "John White and Son," set and subscribed thereto, and whether or no had you authority from the said

Defendant to set and subscribe your name to such memorandum or receipt, or to sign any agreement as to the sale of the said premises? And is it the usage for persons employed as auctioneers, to sign such memorandum, receipts, or agreements, on the part of the persons by whom they are employed to sell; and whether or no had you then actually received, from the said Complainant, the said sum of £ or for what reason did you give a receipt for the said sum as if you had actually received it? Set forth, &c.

To prove the agreement signed by Plaintiff, and the circumstances of the sale.

4th. Look upon the paper-writing now produced, &c. of whose hand-writing is the said agreement, and whether or no was the same signed by any person, and whom, in your presence; and is your name, set and subscribed as a witness thereto, of your proper hand-writing; where was the said agreement written and signed, and was the said Defendant then present; and did he make any and what objection thereto, and whether or no were you present when the sale of the said lot took place; and if yea, state what passed thereupon, and whether when the said lot was knocked down to the said Complainant, any and what objection was made thereto by the said Defendant? Set forth, &c.

Lastly. Do you know of any other matter or thing, or have you heard, or can you say any thing touching the matters in question in this cause, that may tend to the benefit and advantage of the Complainant in this cause, besides what you have been interrogated unto? Declare the same fully, and at large, as if you had been particularly interrogated thereto.

Opinion.—The question in this case is, whether any memorandum of the sale was signed by any person lawfully authorized by the Defendant, and the only paper that can be stated to have that effect, is the memorandum and receipt of the £ mentioned in the bill to have been signed by one of the Whites.

The agreement signed by the Plaintiff does not bear upon the difficulty of the case. If the evidence comes up to the representation of it, I think the Plaintiff will succeed; but the case is not without doubt.

Interrogatories as to Sale of Estates, defective Title in Vendor. Plaintiff's Title. Purchase less than valuable Consideration. Conversation about Title, Fine, &c.

Between L. Plaintiff.

and

P. Defendant.

1st. [Knowledge of the parties.]

2d. Knowledge of N. L. in the pleadings named, Plaintiff's late grandfather, deceased, in his life-time, and for how long before his death, and when or about what time did he die? Declare, &c.

3d. Whether or no do you know, and have you or not, at any and how long time; known or been acquainted with a messuage, or tenement, and premises, situate, &c. now called or known by the name of, &c. and heretofore, or formerly called or known by the name of, &c. and late or heretofore the estate of the said N. L.? Declare, &c.

4th. Whether or no did the said N. L. ever, and when, in his life-time, sell or dispose of the messuage, or tenement, and premises, in the third interrogatory mentioned or inquired after, to the said Defendants, or any and which of them, or to any and what other persons or person, and who by name, and for what sums or sum of money, or for any other and what consideration; and were or was not the same, or any and what part thereof, by any and what deeds or deed, or otherwise, and how, conveyed, and by whom, and particularly, whether or not by the said N. L. to such purchasers or purchaser, or any and which of them? Had or not such persons or person, purchasers or purchaser, or any and which of them, at any and what time, before or at the time of making of such purchase, or of the execution of the conveyance of the said premises, or of the payment of the whole, or any and what part of the purchase-money or consideration for the same, and by what means, any and what knowledge, notice, or information, that the title of the said N. L. to the said messuage, or tenement, and premises, or any and what part thereof, was defective, or that he had not full power or authority to sell or dispose of the same, or of the inheritance thereof, or that any and what other person, and who by name, had any right, title, claim, or interest thereto or therein, or to or in any and what part thereof as you know, or for any and what reason believe: Declare, &c.

5th. Whether or no had the purchaser or purchasers

N N &

of

of the said messuage, or tenement, and premises, in the said third interrogatory mentioned or inquired after, or any, or either, and which of them, at any and what time, before or at the time of the making such purchase, or of the executing the conveyance of the said premises, or of the payment of the whole, or any and what part of the purchase-money for the same, and by what means, any and what knowledge, notice, or information that the Complainant had any and what right, title, claim, or interest thereto or therein, or to or in any and what part thereof? Declare, &c.

6th. Whether or no was the price, or the sum of money paid by the said purchasers or purchaser of the said messuage, or tenement, and premises, as in the said preceding interrogatory is mentioned and inquired after, the full or utmost price or value thereof, or was or not the same, and for what reason less, and by how much less than the full value thereof, in case a good title could have been made thereto, to such purchasers or purchaser; were or not the same purchased for some, and what sum of money less than the real and full value thereof, on account of some and what defect in the title of the vendors or vendor thereof, and who by name, in the title thereto or therein, or was or not some and what deduction or allowance made out of the purchase-money for the same, or such or some and what other account? Declare, &c.

7th. Whether or no did you ever, and when, on any and what occasion, hear the said Defendants, or any and which of them, say or declare any thing and what, touching or concerning their, or any and which of their right or title to the aforesaid messuage, or tenement, and premises, or any and what part thereof, or any defect therein, or touching or concerning the right, title, interest or claim, of any and what other persons or person, and who by name, thereto or therein? Set forth all and every the particulars, and when and where, and before whom, or in whose presence or hearing, and upon what occasion the same or any of them were or was made. Had you or not ever, and when, any and what conversation with the said Defendants, or any and which of them, touching their, or any and which of their right or title to the aforesaid premises, or any and what part thereof? Declare, &c.

8th. Whether or no are you the master or keeper of any and what office or place in which the records of fines suffered of estates or lands situate, &c.? If yea, for how long have you acted or been employed therein, and are or not, and have or not such records, or any and which of them been, for any and how long time,

time, in your custody or possession? Whether or no were any and which of such records, and from and to what time in particular, and when and about what time lost, or in any and what manner destroyed? If yea, have or not you any and what reason to know or ascertain, what particular records or record of fines, were or was upon such occasion lost or destroyed, and were or was or not any indentures or record of any fines or fine, levied by any and what persons or person, and who by name, of the messuage, or tenement, and premises hereinbefore mentioned and inquired after, upon such or any and what occasion lost or destroyed, as you know, or for any and what reason believe? Declare, &c.

Lastly. [Usual interrogatory.]

Interrogatories respecting the Purchase of Estates, and as to Objections on the Title.

To prove the printed particular by the examination of the auctioneer.

1st. Interrogatory. Look upon the printed paper, or particular of sale now produced, &c. whether or no was you at any time, and when, employed by any person or persons, and whom, to sell the said estates and premises, in the said particular described, and whether or know was the said particular printed and published by your order, or by whose order, as you know, or for any and what reason believe? Declare, &c.

To prove the estimated value of land by the examination of the surveyor.

2d. Whether or no were you, at any time, and when, employed by _____ to estimate the value of the estate and premises described in the printed particular of sale marked A. now produced, &c.? If yea, did you form your estimate of the value from any actual survey and admeasurement, or from any and what other information, respecting the quantity of lands to be sold, and in particular in forming such valuations? At what quantity did you compute certain lands, part of the said estate, called the _____ and whether or no should you, in any and what manner, have reduced the estimate of the value of such estate and premises, if you had known that the said lands, called the _____ contained a less number of acres than they were so computed at by you?

To prove delivery of abstract.

3d. Whether or no did you, at any time, and when, as the solicitor of the said Complainants, deliver to the said Defendants, or to any person, and whom, on his part, any abstract of the title of the said Complainants to the estate and premises, in the pleadings mentioned?

Whether

Whether or no did the said Defendant, or any person, and whom, on his part, at any time or times, and when, and how, make to you any, and what objections to the said title, and what answer did you thereupon make, and if by writing, set forth the same in the words and figures thereof, and what afterwards passed between you and the said Defendant, or any other person, and whom, on his part, respecting the said title, or the agreement of purchase in the pleadings mentioned? Set forth, &c.

To prove the actual quantity by admeasurement.

4th. Whether or no did you ever, and when, and by whose employment, make a survey and admeasurement of certain lands, called the S., situate in the parish of C., in the county of _____? If yea, of what number of acres do the said lands consist? Declare, &c.

To prove that the objections were made at the time of the agreement.

5th. Whether or no had you, at any time, and when, previous to the making of the agreement of the _____, in the pleadings in this cause stated, and upon what occasion, any, and what communication with the said Plaintiff, as to the title of the said Defendant to the premises comprised in the said agreement? And did the said Plaintiff at any time, and when, and upon what occasion, previous to the making of the aforesaid agreement, state to the said Defendant, or to you, or to any other person, and whom, as the solicitor or agent of the said Defendant, that there existed any, and what objections to the title of the said Defendant to the said premises; and in particular any, and what objections, by reason that one R. B. had not joined in the conveyance of the said premises to the said Defendant, or any, and what objections, by reason that one A. S. claimed to have some right or interest in the said premises; and for what purpose did the said Plaintiff state the said objections to the title of the said Defendant to the premises; and had the said objections any, and what effect as to the price which the said Defendant agreed to accept from the said Plaintiff for the said premises? Declare, &c.

Interrogatories as to an Agreement to purchase a Cargo of Negroes.

Interrogatories to be exhibited, &c.

Between S. Plaintiff,
and
R., and others, . . . Defendants.

On the part and behalf of the Complainant as follows:

1st. [Knowledge of parties.]

2d. Whether or no did you, at any time, and when, in the year _____, agree to purchase, from the said Complainant,

Complainant, at S., or elsewhere, and where, the cargo of negroes in a ship called the M., commanded by the said Complainant, and the joint property of the said Complainant and G. G. and Co., of Liverpool? If yea, whether or no did you, at any time, and when, previous to the said agreement of purchase, represent to the said Complainant, that the Defendants T. R. and C. S., had given a guarantee to the said G. G. and Co., or any other person or persons, and whom, for the sale of the said cargo, by you, or any other person or persons, and whom? And whether or no did you, at any time, and when, previous to the said agreement of purchase, produce and read to the said Complainant any letter from the said Defendants R. and S., or either of them, or from any other person or persons on their, or either of their behalf, purporting that the said Defendants R. and S., had given such guarantee as aforesaid, or any other, and what guarantee respecting the said cargo? If yea, look upon the paper-writing now produced, &c. Whether or no is the said paper-writing the letter which was so produced or read by you to the said Complainant as aforesaid; and of whose hand-writing, or hands-writing, are the body of the said letter and the signature thereto respectively? And did you ever see such person or persons write, or by what other means are you acquainted with the character and manner of hand-writing of such person or persons? If such letter is not in your custody or power, then set forth what is become thereof, and whether or no you have any copy thereof. Look upon the paper-writing now produced by you at this the time, &c. Whether or no is the said produced paper-writing the copy of the said letter, and when, and by whom, and upon what occasion, was the same made? And if you have no copy of the said letter, then set forth the contents thereof to the best of your recollection and belief, as far as regarded the guarantee of the said cargo. Declare, &c.

3d. Whether or no did you draw and deliver to the said Complainant any, and what number of bills of exchange, and to what amount, for the produce of the said cargo upon the said Defendants R. and S.? And did you, at or about that time, or at any time, and when, ship on board the said M., or any other, and what ship or ships, and consign to the said Defendants R. and S., any colonial produce, or other, and what effects, and to what amount, in order to provide for the payment of the said bills so delivered by you to the said Complainant, for the produce of the said cargo? Or whether or no have you, at any time or times, and when, assigned or conveyed to the Defendants

ants R. and S., or to any other person or persons in trust for them, or for their benefit, any, and what estates or property whatsoever, in or towards satisfaction of the said bills, or any of them, or any part thereof; or have the said Defendants R. and S. been in any other, and what manner, paid or satisfied by you the amount of the said bills, or any, and which of them, or any, and what part thereof; or have you in any, and what manner, and when, had credit in account with the said Defendants R. and S. for the amount of the said bills, or any, and which of them, or any, and what part thereof? Set forth, &c.

4th. Whether or no had the said Defendants R. and S., or either, and which of them, any acquaintance or connection with R. C. who was some time since your partner, before he became your partner? And whether or no did your dealings and transactions with the said Defendants R. and S. depend upon the continuance of your partnership with the said R. C., or upon the personal confidence which the said Defendants R. and S. reposed in you? Declare, &c.

5th. Whether or no is it a usual practice in the A. trade for the same house at L. to give a guarantee for two or more houses, in different islands in the W. I., for the produce of the same cargo? Declare, &c.

Lastly. [The usual interrogatory.]

Interrogatories to prove an Assignment, made previous to Bankruptcy, was fraudulent.

Interrogatories to be exhibited, &c. wherein
W. R. and J. P., assignees of the estate and
effects of E. T., a bankrupt, are Complainants,
and

T. H. is Defendant.

On the part and behalf of the Complainant as follows :

1st. [Knowledge of parties.]

2d. Had you, at any time, and when first, and where, and in whose presence, any conversation with the Defendant respecting the affairs of E. T. the bankrupt, in the pleadings of this cause named? If yea, set forth upon what occasion such conversation took place, and the particulars of such conversation, and what was said thereon by the said Defendant, or by you, or any other person or persons, to or in the presence

presence or hearing of the said Defendant respecting the affairs of the said E. T.; and was any, and what agreement then come to by you, on the part of the said E. T., with the said Defendant, respecting the assignment of any, and what leases; or was any thing, and what, then said by the said Defendant, or by you, or any other person, and whom, to the said Defendant, or in his hearing, respecting any such assignment? And did you then inform the said Defendant that the said E. T. was in insolvent circumstances, or did any thing, and what, pass as to the insolvency of the said E. T., or as to any, and what composition being made or proposed to his creditors, or as to the said Defendant's guaranteeing such composition? Set forth, &c.

3d. Had you, at any time or times, and when, afterwards, before the said commission of bankrupt was taken out against the said E. T., any other conversation or conversations with the said Defendant respecting the affairs of the said E. T., and where, and in whose presence, and upon what occasions, respecting such affairs? If yea, set forth the particulars of such conversation or conversations in the order in which the same took place, and what was said thereon respectively by you, or the said Defendant, or any other person or persons, and whom, in his presence or hearing? And was any, and what agreement come to, or any thing, and what, said, in any, and which of such conversations, as to the assignment of any, and what leases by the said E. T. to the said Defendant? And did any thing, and what, pass, in any, and which of such conversations, as to the insolvency of the said E. T., or as to any, and what composition being made or proposed to his creditors, or as to the said Defendant guaranteeing such composition? Set forth, &c.

4th. When first did you inform the said Defendant, or did you learn from him that he knew or suspected the insolvency of the said E. T.? And when first did any thing, and what, pass between you and the said Defendant, or any other person and the said Defendant, in your presence or hearing, respecting a composition to be made or proposed to the creditors of the said E. T.? And when first did the said Defendant agree to guarantee such composition? Set forth, &c.

Lastly. [The general interrogatory.]

These interrogatories were exhibited to the clerk of the bankrupt, who had discovered his insolvency and informed the Defendant of it.

Interrogatories as to a Bankrupt's Connexion with a certain Co-partnership.

In the matter of W. P., a bankrupt.

Interrogatories exhibited before N. S., esq. one of the Masters of the High Court of Chancery, to whom this matter is transferred on the part of T. B., esq. for the examination of the said bankrupt, in pursuance of the order of the Lord High Chancellor, made in this matter, bearing date, &c.

1st. Interrogatory. What was the nature of the partnership which subsisted between the said T. B. and G. P. and yourself, and what business was carried on by you as partners? Was or was not the said T. B., at any time, and when, in any, and what manner concerned or interested with the said G. P. and yourself in the business of a broker? Was it, or was it not, ever, and when, agreed or understood, by or between you and the said G. P. and T. B., that he the said T. B. should receive any, and what part of the loss that might arise from such brokerage business? Did or did not you and the said G. P., or either, and which of you, carry on the business of a broker, previously to the commencement of your partnership with the said T. B.? Was or was not the said brokerage business profitable in any, and how many of the years during which you were in partnership with the said T. B.? From what, and in what manner did the profits of such brokerage business arise? Was or was not any, and what part or share of the profits of such brokerage business, at any time, and when, during the continuance of the said partnership between you and the said G. P. and T. B., paid or allowed to the said T. B.; or did he, or did he not, derive any, and what benefit or advantage therefrom?

2d. By whom were the books of account of the said partnership kept during the continuance thereof? Describe particularly the several books of account which were so kept of the business in which you were so concerned, either jointly with the said G. P. and T. B., or with the said G. P. only? By what names or descriptions were such books respectively called or known? Were or were not the accounts of the said brokerage business included in all, or any, and which of such books, together with the accounts of the mercantile business? And if so, for what reason were the accounts of the said two businesses included in the same books? In what manner were the profits of the mercantile business respectively carried to account in such books, or any of them? In the manner in which such books were kept, could, or could not, the brokerage accounts be

be distinguished from the other accounts in the said books, or the profits of the brokage business be separated from the profits of the general business of the said house?

3d. In what manner, and at what periods, were the balance sheets of the said accounts made up? Were or were not such balance sheets, from time to time, delivered to the said T. B.? If yea, for what reason, and for what purpose, were such balance sheets made up and delivered to the said T. B.? Did you, or did you not, at any time, and when, during the continuance of the said partnership between the said G. P., and T. B., and yourself, consider the said T. B. entitled to any, and what share or proportion of the profits of the said brokage business? And if he, the said T. B., had demanded any share or proportion of such profits in the years when such business was profitable, should you, or should you not, have complied with such demand?

Lastly. Do you know any other matter or thing, not hereinbefore particularly inquired, which may tend to the benefit or advantage of the said T. B. in this matter? If yea, set forth the same fully and at large, as if you had been thereunto particularly interrogated.

Interrogatories exhibited before Commissioners of Bankrupt, as to the Bankrupt and his Estate.

Interrogatories exhibited before the commissioners named and appointed in a commission of bankrupt awarded and issued against J. D. for the examination of T. G. V., of the city of B., merchant, before the said commissioners.

1st. [Knowledge of the bankrupt.]

2d. Whether or no did the said J. D., for any, and how long time, before he became a bankrupt, or before a commission of bankrupt was awarded and issued against him, carry on any, and what trade, in or at, &c. or in or near any, and what other places or place? What in particular was the nature of such trade? Was the same in any, and what degree profitable, or otherwise? Was you, or not, during the whole, or any, and what part of such time, and by what means, and in what manner, conversant with the nature and extent of such trade, or the concerns thereof, or the mode or manner in which the same was conducted by the said J. D. and whether or not with the debts and credits, profits and losses thereof? Had you, or not, during the whole, or any, and what part of the time, and whether

whether or not immediately, and at some, and what time in particular, preceding the issuing of the said commission of bankrupt, the liberty or opportunity of perusing, examining, or inspecting all, or any, and which of the books of accounts, and other, and what books and papers relating of, or concerning the said trade of the said bankrupt, or his affairs? And did you not, from time to time, or at some, and what times, at your own will and pleasure, or how otherwise, peruse, examine, or inspect the same, or some, and what part thereof, or for what reason was such examination had or made? Declare, &c.

3d. Whether or no was the said J. D., on or about, &c. indebted to you in any, and what sum of money? If yea, set forth the exact amount thereof, and how you compute or make out, the same. Was or not the said debt, by any, and what means, lessened, &c. at any times or time, and when, between that time and the date of suing forth of said commission? Declare, &c.

4th. In what degree of credit and circumstances was the said J. D. upon or about, &c.? Were or not his credit and circumstances then good, or were they in any, and what degree bad or desperate? Was he or not then in circumstances unable to pay all the debts due or owing from him as you know, or for any, and what reason believe? Did you, or not, then conceive that the said J. D. was insolvent, or that he would become a bankrupt, or that a commission, &c. would be issued against him? If yea, what were the grounds, &c. for such belief? Declare, &c.

5th. Whether or no was any plan ever, and when, previously to the bankruptcy, or the issuing the said commission, formed by you to obtain from said J. D. any sums or sum of money, bills, notes, goods, property, or effects of the said J. D., to be applied by you in or towards, or in payment of debts then due, &c. from him to you, in preference, or to the prejudice of the rest of J. D.'s creditors? And did you, or not, at some, and what time or times, and how often, and when in particular, and whether or not, on or about, &c. apply unto the said J. D., on such occasion, or for some such, or the like purpose, or did you, or not, make some, and what representations to the said J. D. relating thereto? Why, or for what reason, were, or was some, or any, and which of such acts done, and whether in contemplation or prospect of the bankruptcy of said J. D.? And did you, or not, then know, believe, or suspect, or had you, or not, and by what means, some, and what reason to believe, &c. that the said J. D. was insolvent, or that he was in desperate circumstances, or that he would become, or
was

was in danger of becoming a bankrupt, or that a commission, &c. was issued against him? Did you, or not, make some, and what offer, or proposal, promise, or engagement, and of what nature, to or with said J. D. to induce him to comply with the terms of such offer, &c. and did, or not, J. D. accede thereto or comply with such terms? Had you, or not, any, and what conversations or conversation with J. D. relating thereto, or upon the subject thereof? Set forth the particulars fully, and circumstantially. Declare, &c.

6th. Whether or no, did said J. D. on or about, &c. pay unto you any, and what sums or sum, or assign unto you any and what debts, &c. due and owing to him, or deliver unto you any and what bills? Set forth all such sums and debts, with the particulars thereof, with the natures and values thereof respectively; and whether same did not consist of all, or any, and which of the sums, items, articles, or particulars following: viz. &c. For what reason, and with what view or design, were or was the same, or any, and which of them, paid, or given, or delivered to you? And whether or not, for the purpose of decreasing or diminishing your own private and separate debt, in preference, or to the prejudice of the other creditors of J. D.? And whether or not, pursuant to, or in view of some preconcerted scheme by or between you and said J. D. or one and which of you, did you, or not, then by some, and what means know, or had you not some, and what means of knowing, or some and what reason to believe, and did you not believe that said J. D. was insolvent, or unable to pay his debts, or in desperate or bad circumstances, or that he would become, or was likely to become, a bankrupt, or that a commission had issued, or would issue; and particularly whether it was not agreed, or meant, intended, or understood by and between you and J. D. or one and which of you, that a commission, &c. should be taken out upon the petition of you, or of some, and what other person? Was it not agreed by and between, &c. that the transaction before mentioned and inquired after, should be concealed from all the creditors of J. D.? If yea, why, and for what reason was the same to be concealed, and whether or not from a knowledge that the transaction was fraudulent, or from what other motive? Was it not with some such reason, or for any and what other reason, agreed by and between you and J. D. or one, and which of you, that entries should be made in or upon some, and what books or book of account of J. D. of the aforesaid transaction, or of the payment of all, or any and which of the sums, or of the delivery unto you of all or any, and which of the goods, or effects, bills, drafts, notes, or other securities

for money, hereinbefore particularly mentioned and inquired after, or some, and what days, or at some and what times prior, or anterior to the day or time on which same, or some and which of them, were respectively actually paid or delivered unto you? Declare, &c.

7th. Whether or no were, or was any, and what entries, &c. ever, and when, and by whom, made, in or upon any books, &c. of account of J. D. of the matters or transactions in the preceding or 6th interrogatory mentioned; or of payment unto you of all, or any, and which of the sums, or of the delivery of all, or any, and which of the bills, notes, or other securities for money, or all articles of goods or effects in same interrogatory? Set forth, &c.; and were or was the same, or any, &c. and why, omitted to be so entered? By whose orders or directions were or was entries made, and particularly whether or not by your orders, &c. or at your desire, &c. or with your concurrence? Were the entries which were so made, or wrote, upon the several days, &c. of the days affixed, &c. thereto in said books, on which same appear in the said books to have been made or wrote, or whether at some and what times subsequent thereto?

Interrogatory relative to the Solvency of a Bankrupt at the Time of his assigning certain Premises to particular Creditors.

1st. Whether or no was you, on or about the day of _____, and for how long before, employed as clerk or book-keeper in any and what trade or business carried on by the Defendant, S. F. in copartnership with his brother A. F. or any other person or persons, and whom, and at what place? If yea, whether or no had you any and what opportunity to know, and did you know the circumstances and state of credit of the said trade or business, and of the said S. F. and of the other person or persons interested therein, and what were the circumstances and state of credit of the said S. F. and of the said other person or persons in or about the said _____ day of _____ and for some time before? Whether or no as you, for any and what reason, know or believe, were the Defendants, or any, or either, and which of them, in any and what manner acquainted on or about the said _____ day of _____, with the circumstances and state of credit of the said S. F. and of his said copartner or copartners; and whether or no did the said Defendants,
or

or any and which of them, at any time, and when, about the said day of , refuse payment of any draft for a sum of , or any other, and what sum, drawn on them, or some, and which of them, by the said S. F. and his said copartner or copartners, or any, and which of them, and for what reason, and under what circumstances did they refuse such payment? State the particulars of the several matters hereinbefore inquired into, fully and at large, and the truth declare.

Interrogatories to prove a Co-partnership.

Between Our Sovereign Lord the King,
and
C. T. and others, . Defendants.

Interrogatories exhibited before F. I. esq. the deputy to his Majesty's Remembrancer of the Court of Exchequer, for the examination of witnesses on the part of the Defendants, pursuant to an order, &c.

To prove the articles of co-partnership.

1st. [Knowledge of parties.]

2d. Look at the deed or writing now produced or shewn to you at this the time of your examination, marked with the letter A, purporting to be articles of copartnership between the said W. G. and the said A. E. Whether or no was the same, at or about any, and what time or times, signed, sealed, or delivered by any, and what persons or person, in your presence? Are you, or not, a subscribing witness to the signing, sealing, or delivering thereof, by the said W. G. and the said A. E. or either, and which of them; of whose handwriting is your name now appearing to be subscribed or indorsed as witness thereto? Declare, &c.

To prove the carrying on the business before A. E.'s admission into the partnership, by the book of the trade bills.

3d. Was you, or not, ever, and when, and for how long, between the day of , and the day of , employed at , in the county of , in the conduct or management of any, and what trade or trades carried on during such time, or any, and what part of such time, in the name of the said W. G. and any other and what person or persons as his partner or partners? And if yes, did you, or not, during such, or any, and what part of such time, keep any, and what book or books, for the purpose of making entries of any, and what kind, respecting the dealings and transactions of such trade or trades, or either of them? Look upon the books

books produced and shewn to you, at this the time of your examination, marked respectively with the letters ; were not the several entries therein, or in some and which of them, or some and which of such entries made by you? And if yea, when and upon what occasion, and for what purpose did you respectively make such entries, and what do the same respectively purport to be; and did you, or not, during such time, or any part of such time, and when, make out or deliver any bill or bills to any person or persons, and to whom, for goods sold during such time, and when, from such trade or trades, or some, and which of them? And if yea, to whom were such person or persons charged to be indebted by the title of the said bill or bills; and did you, or not, during such time, and when, receive from any person or persons, and whom, any, and what sum or sums of money for goods sold from the said trade or trades, or some and which of them, during such time? And if yea, for whom, and for whose use, did you, by writing or otherwise, and how, acknowledge the same to be received; and was there not, during such time, or some, and what part of such time, some written or painted inscription in or on the external part of the shop or warehouse in which the said trade or trades, or some and which of them, were carried on, denoting the name or names of the person or persons by whom, or upon whose account the same were carried on? And if yea, set forth what in particular was such writing or inscription in the very words thereof? Declare, &c.

4th. Same as 3d interrogatory, except after the day of

5th. Same as 4th, except at , instead of

Examination of messengers to prove that the heads of articles were delivered to them for the purpose of drawing regular articles, and why such articles were not drawn.

To prove partnership.

6th. Look upon the paper-writing now produced, &c. marked, &c. purporting to be a proposal of heads of articles of copartnership between, &c.? Whether or no do you know, or are you acquainted with the character of hand-writing in which the same, or any and what parts or part thereof are or is written? If yea, set forth of whose hand-writing the same, or any, and what parts or part thereof is or are; and whether you have not seen such persons or person write? Whether or no, was the said paper-writing at any time, and when, and by whom, and upon what occasion; and for what purpose was the same so delivered or shewn to you, and what thereupon was done by you, or by any other person, and whom, by your order? Declare, &c.

7th. Look at the deed or writing now shewn to you, &c. marked, &c. purporting to be articles of copartnership between, &c.? Whether or no did you, in pursuance of such articles, or upon any other and what terms

terms and conditions, and when, and for how long, carried on any and what trade or trades, and where, in copartnership with the said A. E.? Declare, &c.

8th. Look at the paper-writing now, &c. marked, &c. purporting to be a proposal for, or heads of articles of copartnership between, &c.? Whether or no do you know, or are you acquainted with the character or manner of hand-writing in which the same, or any and what parts or part thereof, are or is written? If yea, set forth of whose hand-writing the same, or any and what parts or part thereof; and whether you have or not seen such persons or person write? When, and by whose direction was the said paper-writing sent to, or delivered to any person or persons, and whom, in order that regular articles of copartnership might be drawn pursuant thereto, or how otherwise? Whether or no did you, for any time, and when, and for how long, and where, carry on any, and what trade or trades, in copartnership with the said T. E. upon the terms stipulated and expressed in the said paper-writing, or upon any and what terms and conditions? Look upon the printed newspapers now, &c. intitled respectively the, &c. and upon the advertisement in each of the said newspapers marked, &c.? When, and for what purpose, and by whose direction were the said several advertisements, or some, and which of them, inserted in the said several newspapers, and were the same, or any and which of them, inserted with your knowledge or approbation? Declare, &c.

Lastly. [The usual interrogatory.]

To prove the advertisements of the partnership, [two or three papers of successive weeks will be sufficient].

Interrogatories to prove a Partnership.

Interrogatories to be administered, &c. wherein
S. W. is Complainant,
and
T. F., H. J. F., R. F., S. G. F., M. F., and
S. F. are Defendants,

On the part and behalf of the Complainant, as follows :

1st. [Knowledge of parties.]

2d. Whether or no did you ever, and when, first live, and in what situation, and at what age, with J. F. and R. J. F. both late of, &c. but now deceased, in the pleadings of this cause respectively named, and for how long did you continue with them, and when did you quit them; and did you ever, and when, return to them, and for how long did you afterwards remain with them,

o o

and

and in what situation? Whether or no did the said J. F. ever, and when, and where, and how often, declare to you, or in your hearing, that the said R. J. F. was his partner, in any and what trades or businesses, or make any declarations to such and what effect? Whether or no did you ever, and when, and how often, by the directions of the said J. F. make out bills to customers of the said trades or business, or any of them, in the name of J. F. and company, and who was intended by the word company, as you know or collected, and how, from the said J. F. and how many keys were there to the till of the shop in which the said businesses were carried on, and by whom were such keys respectively kept, and who had access thereto, and what and whose expenses were paid therefrom? What name or names was or were painted over the shop door in which the said business were carried on, or painted, or engraved on the passage door of the house in which the said J. F. and R. J. F. lived, and by whom was or were such names or name painted or engraved, and who was or were intended thereby, as you know, or for any and what reason believe? Who appeared to act as masters or partners in the said trades or businesses, and who had access to all the books of the said trade, and made entries therein, and gave receipts for monies received, and in what names? Whether or no did the said R. J. F. ever, and when, and how often, in the presence or hearing of the said J. F. speak of himself as a partner in the said trades or businesses with the said J. F. or to such effect; and did not the said J. F. upon such occasion, deny or admit the same, or how otherwise? What part did the Complainant S. W. take in the management of the family, or of the said trades or businesses, as you know or believe? Set forth the particulars, &c.

*To examine
tradesmen as to
their knowledge
of a partner-
ship.*

3d. What is your trade or business, and where do you live? Whether or no did you ever, and when, and for how long, deal in any and what goods, with J. F. or R. J. F. late of, &c. but now deceased, and in the pleadings of this cause named, or either and which of them? In what name or names were your invoices or bills of parcels for such goods made out during the life of the said R. J. F. and after his death? Whether or no were or was any bills or bill of parcels ever returned to you by the said J. F. which had been made out in his name alone, and with any and what instructions as to making out the same in a different and what manner? Whether or no was you ever, and when, informed by, or did you, in any manner, and how, collect from the said J. F. that he had any and what partner in his said business; and whether or no did you know, from the course of any dealing with the said J. F. and R. J. F. that they were

were partners together in the said business? Declare, &c.

4th. Whether or no are you a partner in any and what banking house, or house of business? Whether or no did J. F. late of, &c. but now deceased, at any time when he was in , and when in particular, open any cash account with you, and in what name or names; and whether or no did he, upon that, or any other and what occasion or occasions, make any and what declaration or declarations to you, or to any person, and whom, in your hearing, respecting his brother R. F. in the pleadings in this cause also named, being in partnership with him in any and what trades or businesses? Set forth, &c.

5th. Whether or no were you, at any time, and for how long, employed in any and what situation in the late firm or banking house of B. and company? Whether or no had J. F. and R. J. F. late of but now both deceased, and in the pleadings in this cause named, or either and which of them, any cash account with the said banking house, during such your situation then, and what was the name or stile of such account; and did the said J. F. and R. J. F. or either and which of them, draw, in their own names, upon such account, and were such drafts honored, and was such accounts with such drafts credited therein afterwards admitted by them, or either and which of them?

6th. What is the right of voting for members of parliament, at ? Whether or no did R. J. F. late of, &c. ever, and when, vote for any member or members of parliament for the said borough, and in what right and character; and whether or no did the said R. J. F. ever, and when, serve any and what parochial offices in the said borough? Set forth, &c.

7th. Whether or no did J. F. in the pleadings, &c. upon the occasion of any and what election for a member or members of parliament, for the borough of , make any and what declaration, and when, respecting his brother R. J. F. in the pleadings, &c. being a partner with him? Declare, &c.

8th. Whether or no were you acquainted with J. F. and R. J. F. late of, &c. but now deceased, the testators in the pleadings of this cause respectively named, or either and which of them, and how long before their respective deaths? Whether or no had you at any time, and when, any conversation or conversations with the said J. F. respecting the said Complainant, or respecting any provision which he had made or intended to make for the said Complainant, or which had been made for the said Complainant, by the said R. J. F.?

If yea, set forth all the particulars of such conversations, and when and upon what occasions the same passed, according to the best of your knowledge, remembrance, information, and belief, and the truth declare.

9th. Whether or no was you at any time, and when, and where, present, when any conversation passed between R. J. F. and J. F. both late of, &c. but now deceased, respecting any provision made for the Complainant S. W. by the will of R. J. F.? If yea, set forth what was said both by the said R. J. F. and the said J. F. upon that occasion; and whether or no did the said R. J. F. then, or at any other time, and when, deliver to the said J. F. his will, or any paper which he described as his will? Set forth, &c.

10th. Whether or no did J. F. and R. J. F. in the pleadings of this cause respectively named, or either and which of them, at any time, and when, purchase any and what sum, in any and what stock, and in whose names, as a gift for the said Complainant, as you know, or for any and what reason believe; and whether or no was the same, at any time, and when, and upon what occasion, and by whose advice, after the death of the said R. J. F. transferred into the name of the said Complainant as you know, or for any and what reason believe? Whether or no did the said J. F. ever, and when, and upon what occasion, make any and what declaration respecting his brother R. J. F. being a partner with, and respecting the share and interest which he had in the joint trade and property? Set forth, &c.

11th. Whether or no were you present in the room with the said J. F. about two days before his death, when the said J. F. made any declaration to the Defendant H. J. F. and S. F. respecting the said Complainant? If yea, set forth the particulars of such declaration, and what was said thereupon by the said H. J. F. or S. F.? Declare, &c.

12th. Whether or no did you, on the part of the Defendant H. J. F., ever, and when, attend any meeting of the said several Defendants, or any and which of them, for the purpose of settling the share of the said H. J. F. in the said J. F.'s estate? If yea, was the value of the said J. F.'s estate, then stated to be, or admitted by the said Defendants, or any and which of them, to be of any and what amount in the whole? Declare, &c.

To prove exhibits.

13th. Look upon the paper-writings now produced and sworn to you at this the time of your examination, marked with the letters A, B, C, D, &c. of whose handwriting are the said several paper-writings, and the superscriptions thereof, and the signatures thereto, or any and

and which of them, as you know or believe? Are you, by any and what means, acquainted with the character and manner of hand-writing of J. F. late of, &c. but now deceased, and in the pleadings in this cause named? Set forth, &c.

Lastly. Do you know of any other matter or thing, or have you heard, or can you say any thing touching the matters in question in this cause, that may tend to the benefit and advantage of the said Complainant, besides what you have been interrogated unto? Declare the same fully and at large, as if you had been particularly interrogated thereto.

Interrogatories as to Partnership Accounts.

Between, &c.

Interrogatories to be, &c.

1st. Interrogatory. Set forth a full, true, and particular account of all and every the sum and sums of money received by you, or by any person or persons by the order or for the use of you and G. B. deceased, in the pleadings mentioned, or either of you, or of the estate of the said G. B. on account of the copartnership trade carried on by the said G. B. and the said R. B. and after the decease of the said G. B. by you the said R. B. as in the pleadings mentioned, and when, and from whom, and to whom, and by whom, and on what account the same have been received and paid? Declare the truth, &c.

2d. Have you, or not, at any and what time or times since the day of , drawn any sum or sums of money out of the trade which was so carried on by you and the said G. B. and afterwards by you alone, for any other purpose than for the purposes of such trade? If yea, set forth a full, true, and particular account of all and every such sum and sums of money, and when the same were drawn out by you respectively; and have you, or not, placed out, or applied any, and which of such sums of money, at interest, or in the purchase of government, or other, and what stocks and funds, or in any, and what other manner, so as to make any profit or advantage thereby? If yea, set forth how, and in what manner, and in what stocks, funds, or how otherwise, you have applied each and every of such sums and sum of money, and of all and every the sum and sums of money which
you

you have received as the interest or dividends thereof, or otherwise on account, or by means thereof? Declare, &c.

3d. Set forth a full, true, and particular account of the stock in trade, outstanding debts, and other property and effects which belong to the said trade or business, which was carried on by you and the said G. B. as in the pleadings mentioned, and which hath since been carried on by you, and all the particulars whereof the same consisted, and the natures, kinds, quantities, qualities, full, true, and utmost values thereof; and in case the same, or any of them, are not now in your possession or power, set forth in whose possession or power the same are; and set forth an account of the debts which are justly due and owing on account of such concern, and to whom, and for what the same are due and owing. Declare, &c.

4th. Set forth a full, true, and particular account of the gains and profits which have been made since the day of , in the said trade and business which was so carried on by you and the said G. B. and afterwards by you alone, and by the means of the monies which you have received on account thereof; and how, and in what manner you compute the same. Declare, &c.

Interrogatories as to Partnership Transactions.

To prove the partnership by declarations of A. or by dealing with them as partners.

1st. Interrogatory. Whether or no were you acquainted with C. H. late of , but now deceased, and for how long did you know him before his death, and when, and about what time did he die? Whether or no did the said at any time, and when, take as a partner with him, in any, and what business? If yea, what are the terms of such partnership, and what proportion or share was the said to have therein, and for how long did such partnership continue, and when, and for what reason was the same determined or dissolved, and upon what terms, and whether or no have you, at any time or times respectively, heard the said make any, and what declaration or declarations respecting the said copartnership, or the terms or conditions thereof, or the commencement or dissolution thereof? Set forth, &c.

*To prove a
change made in
the firm of the
house at Christ-
mas*

2d. Whether or no were you at Christmas , and for how long before, in any and what manner employed by the late in the carrying on of his paving business? Whether or no did the said at Christmas , or at any other time, and when; take any partner, and whom, in his said business, and for how long did such partnership continue, and in what name or names was or were the bills made out from that time, to the persons for whom such business was done; and whether or no were you, at any time, and when, after Christmas , employed, and by whom, and by whose directions, in the making out or delivering of such bills, or in the receipt of monies for the same, and in whose name or names were receipts for such monies given? Set forth, &c.

*To prove that
from Christ-
mas , B.
alone carried
on the business.*

3d. Whether or no did the said in any and what manner, and when, and for how long time after Christmas , continue to carry on the paving business in which he had been concerned, or in any and what manner to interfere therein, or in any part thereof, or by whom was the said paving business, and every part thereof, and particularly the business of the government boards done and performed from Christmas , until the death of the said , and in whose name or names was or were the bills made out from that time to the persons for whom such business was done; and whether or no were you, at any time, and when, after Christmas , employed, and by whom, and by whose directions, in the making out or delivering of such bills, or in the receipt of monies for the same, and in whose name or names were receipts for such monies given; and whether or no in or about Christmas , or at any other time, and when, were the stock of carts, horses, barges, and other property employed in the said paving business, or any part thereof, valued by any person or persons, and whom? And if yea, upon what occasion did such valuation take place, and under what agreement, and at what prices? Declare, &c.

*To prove
partnership
dealings and
transactions.*

4th. Whether or no were and the said or either, and which of them, in or about the years or , employed in the paving of , and any other, and what street or places in the city of L.? If yea, to whom were the profits of such particular paving business to belong, as you, for any, and what reason, know or believe; and did you, at any time or times, and when, hear the said make any, and what declaration or declarations respecting the same? Declare, &c.

To prove partnership dealings and transactions.

5th. Whether or no did you the Defendant I. C. and R. C. now deceased, or either and which of you, at any time or times, and when respectively, enter into copartnership with the bankrupt T. C. in the pleadings of this cause respectively named, in the several trades or businesses of , or in any, and which of such trades or businesses? And if yea, in what shares and proportions were you the said I. C. and the said R. C. and the said bankrupt respectively, interested in such trades, and every of them, and what was the capital employed in such trades or businesses, and every of them, and by whom was the same provided; and what were the conditions and agreements between you in each and every such trades, with respect to the providing of capital, and the bringing into and taking out monies from the said trades; and to whom did the buildings, stock, and utensils in each and every such trade, belong at the commencement thereof, or by whom were the same provided, and what was then agreed between you with respect thereto? And set forth the particulars of all such buildings, stock, and utensils, and the full, true, and utmost values thereof, and of every part thereof, and what hath since become thereof. Declare, &c.

Interrogatories for the Examination before a Master, to prove Consideration of a Bond, and as to Monies paid for Passage, &c.

Between B. M. widow, and others, . : Plaintiffs.
and

B. N. and others, . . . Defendants.

Interrogatories exhibited on behalf of the said Defendants, before J. S. esq. one of the masters of this honorable court, to whom this cause stands referred, for the examination of T. S. esq. who claims to be a creditor of the testator G. S. in the pleadings of this cause named, pursuant to the decree made in this cause, bearing date the day of .

To prove the consideration of a bond.

1st. Interrogatory. When and where, and in whose presence did the said testator G. S. execute the bond to you for the sum of £ in your charge mentioned,

When executed, if after dinner, and intoxicated; whether addicted to drinking; by whom prepared; the consideration; if for monies; set forth in what manner advanced; whether paid for his passage; whether brought any money on board.

As to the claim of £

As to the claim of £

As to Mrs. M.'s passage.

What agreement made for passage; whether dined at the captain's table; what is the customary pay-

tioned, and at what time of the day was such bond executed, and was it not after dinner, and was the said G. S. then intoxicated, or in any, and what degree heated with liquor, and was not the said G. S. addicted to drinking, and by whom was such bond prepared, and when in particular, and by whose directions, and what was the consideration of such bond; and if you alleged that the consideration was for monies advanced or paid by you to or for the use, or on the account of the said G. S. then set forth when and where, and in what manner, and in whose presence, and to whom, such monies, and every part thereof, were so advanced and paid? Did not the said G. S. pay to you the sum of £ for his passage from to , before or upon, or soon after his coming on board your ship; and did not the said G. S. bring on board with him the further sum of £ , or thereabouts, or some other, and what further sum, as you know or believe; and how happened it therefore that the said G. S. had occasion for the said sum of £ , and how did he spend the same, and what did he do therewith?

2d. When and where, and in whose presence, did you pay to Mr. S. in your charge named, the sum of £ therein mentioned, and when, and where, and in whose presence did the said G. S. request you to pay the same, and when, and how did the said G. S. become indebted in the said sum of £ to the said Mr. S.?

3d. When and where, and in what manner, and in whose presence, did you advance to the said G. S. the sum of £ , and every part thereof, in your said charge stated to have been lent by you to the said testator at , and how did the said G. S. spend the same, or what did he do therewith? When and where, and in what manner, and in whose presence, did you advance to the said G. S. the sum of £ and every part thereof, in your said charge stated to have been lent by you to the said G. S. at and for what purpose did he require such loan?

4th. When and where, and in whose presence, was the agreement made between you and the said G. S. for the passage of Mrs. M. and her two children, from to ? Did the said Mrs. M. or her children dine at your table on the passage, or where they not treated by you as common passengers, or how otherwise? And what is the usual and customary payment for the passage of a woman, and two such children, from to , who are treated as common passengers, or one treated as the said Mrs. M. and her two children were treated by you,

ment of common passengers; and what of those who dine at captain's table.

you, and what is the usual and customary payment for such a passage for a woman and two such children who dine at the captain's table?

Interrogatories for the Examination before a Master, to prove the Age of Children.

Between B. B. and others, . . . Plaintiffs.

and

T. A. and others, . . . Defendants.

Interrogatories exhibited on behalf of the Plaintiffs, before J. S. H. esq. &c. &c. (as before).

Whether children living of the marriage; what their names; where born; whether any dead, and when did they die.

1st. Interrogatory. Whether or no were there any children living of the marriage between you and your late husband W. A. in the pleadings in this cause named, at the time of his death, and what were their respective names, and when and where they were severally born, and are or is any, or either, and which of them, since dead, and when did he, she, or they die?

Whether any baptized; whether any entries made, in what churches, &c.

2d. Whether or no were they, or any, or either, and which of them, at any time or times, and when, and where, and by whom baptized; and whether or no were or was any entries or entry, at any time or times, and when, made in any registers or register of any, and what parish church or churches, or chapels or chapel, or other places or place, as to the birth or baptism of all, or any, or either, and which of them?

Observation.—I fear the master will not consider himself at liberty to examine the Defendant as to these points.

Interrogatories as to the executing and Consideration of a Bond.

Interrogatories to be exhibited, &c.

J. L. the elder, J. L. the younger, . . . Plaintiffs,
and

E. T. and J. G. . . . Defendants.

On the part and behalf of the Complainants, as follows:

1st. [Knowledge of parties.]

2d. Whether or no were you, in the year , employed by T. C. late of , in the county of , but

but now deceased, and in the pleadings in this cause named, as his attorney? Whether or no did you, in that character or otherwise, at any time, and when, in or about the month of _____, prepare a bond to be executed by the said Complainant, for the payment of the sum of £ _____ to the said T. C.? Look upon the paper-writing now produced, &c. whether or no is such paper-writing the said bond so prepared by you as aforesaid? Whether or no did the said Complainants, or either of them, in the presence of the said T. C., or otherwise, object to the said bond being prepared as a common money bond, and for what reason, and what passed thereupon, between the said Complainants, or either of them, and the said T. C. or yourself; and whether or no were you, at any time, and when, desired by any person, and whom, and in whose presence, to make a minute, in writing, of the actual consideration of the said bond, or to any such or the like, and what effect; and whether or no did you make any such minute, and whether or no with the consent, or in the presence of the said T. C., and whether or no did you then, or at any time, and when, read over such minute to or in the presence of the said T. C. and the said Complainants, or either of them, and did the said T. C. make any, and what observation, thereupon? Look upon the paper-writing now produced, &c. whether or no is the said paper-writing the minute so written by you as aforesaid, or what hath become of such minute, and set forth the contents and purport thereof, to the best and utmost of your recollection and belief? Declare, &c.

3d. Look upon the paper-writing now produced, &c. whether or no is your name set and subscribed as a witness thereto, of your proper hand-writing? When and where, and in whose presence, did you so set and subscribe your name as a witness thereto? Whether or no, previous to the execution of the said bond, did any conversation pass between the said Complainants, or either of them, and T. C. in the said bond named, as to the consideration of the said bond? If yea, set forth the particulars of such conversation, and what was said thereon by the said T. C. and the said Complainants, or either of them, or any other person or persons, to or in the presence or hearing of the said T. C.? Declare, &c.

Lastly. [The usual interrogatory.]

Observation.—The bill charges the bond to have been given for the purchase of T. C.'s interest, in two farms, _____ farm, and _____ farm. By the answer it appears, that T. C. had not, at that time, _____ farm, and there is therefore a plain mistake in the bill, which ought to be amended

amended before the replication is filed. The motion to amend should be, amending Defendant's office copy, and requiring no further answer, and will create therefore no delay. Inquiry ought to be made of Mr. H. as to this minute in writing. If he has it he must be served with a subpoena *duces tecum* to produce it upon his examination. If he delivered it over it may be necessary to give notices, or to take other measures before parol evidence can be given by Mr. H. of its contents.

Interrogatories to examine a Solicitor as to a Letter written, and the Motive—As to the Intention of employing another Solicitor—As to an Action commenced for Business done—As to Instructions to appear at the Hearing, &c.

To prove letter written, and motive for writing it.

1st. Interrogatory. Look upon the letter or paper-writing now produced, &c. whether or no is the said produced letter or paper, and the signature thereto, and the direction thereof, or either and which of them of your proper hand-writing, or of the proper hand-writing of any person, and whom, employed by you; or was such letter or paper-writing written by any person, and whom, by your direction or instruction, or with your approbation or privity, and what was your motive or inducement for such letter or paper-writing being written and sent by you, or by your direction or instruction, or with your privity or approbation; and did not such motive or inducement equally apply to the said Defendant T. B., and if not, why? Declare, &c.

To prove notice that they meant to employ another solicitor.

2d. Whether or no did the said T. B. and J. E., or either and which of them, or any other person, and whom, on their or either and which of their part and behalf, at any time and when, after the date of the aforesaid letter or paper-writing, call at your office, or see you elsewhere, and where, and inform you or any other person, and whom, on your part and behalf, that they, or either, and which of them, had employed or meant to employ Mr. J., or any other person than yourself as their solicitor, in the said cause, and when, and by what means did you first know or had reason to believe or suspect that the said Defendants, or either and which of them, had or meant to employ the said Mr. J., or any other person than yourself as their solicitor in the said cause? Declare, &c.

To prove action commenced for bill in other business.

3d. Whether or no did you, at any time, and when, deliver to the said Defendants, or either and which of them any bill for business done by you, on their or either and which of their account, not connected with the

the said cause; and whether or no did you, at any time, and when, cause any and what proceeding to be had against the said Defendants, or either and which of them, for the said bill? Declare, &c.

To prove letter, and as to the persons mentioned therein.

4th. Look upon the letter or paper-writing now produced, &c. (proceed in this interrogatory as in the preceding one for the same purpose) and whether the said Defendants are not the two Defendants who are stated in the said letter to have been desired by the said Defendant J. C. to employ another solicitor, or who otherwise were such two Defendants, and for what reason were such other Defendants desired by the said J. C. to employ another solicitor? Declare, &c.

To prove that C. had no instructions to appear for Defendants at the hearing, and did not in fact deliver briefs for them.

5th. Whether or no did you, at any time, and when, before the said cause came on to be heard, inform the said Defendant B. and E., or either and which of them, that you should instruct counsel to appear for them at the hearing; or did you, at any time, and when, receive any instructions from the said Defendants, or either and which of them so to do, or did you in fact give any briefs or instructions to counsel to appear for the said Defendants, or either and which of them, other than the briefs delivered by you for the other Defendants; and did you not, previous to such hearing, and when, first know that the said Mr. J., as the solicitor for the said Defendants A. and B., had taken copies of the depositions, and had or meant to prepare briefs for the instruction of counsel at the hearing on the part of the said Defendants, or one and which of them? Declare, &c.

Interrogatories to prove Situation a Person held—Acquaintance—Receipt of Monies in such Situation—Expenses and Mode of travelling—Means of providing for his Family, &c.

To prove situation and office.

1st. Interrogatory. Whether or no have you now, and have you for any and what time had any and what situation or office, situations or offices, in or about His Majesty's Treasury, or connected with the business thereof; and whether or no have you by means of such office or situation, or by any other and what means had any opportunity to become acquainted, and are you in any and what degree acquainted with the duties, employment, and profits of the Treasury messengers? Declare, &c.

As to acquaintance.

2d. Whether or no were you intimately or otherwise and how, acquainted with F. G. and A. B., who were

were lately two of the said Treasury messengers, but are now deceased; and for how long did you severally know them, and what was the situation of the said A. B. before he was appointed a Treasury messenger, and was he before such appointment a person of property, or reputed to be a person of property, or how otherwise? Declare, &c.

As to the receipt of monies.

3d. Whether or no did the said F. G. as you, for any and what reason know or believe, receive any monies from the Treasury or elsewhere, and where, on the account of the said A. B., and have you ever and in what years, and how often, seen the said F. G. pay any and what sums of money to the said A. B. in respect of the monies so received by him; and whether or no was it the practice of the said F. G., at such times, to take receipts or memorandums for the monies so paid to the said A. B., or how otherwise; and whether or no was it as you, for any and what reason know or believe, the general habit of the said F. G. to be regular in his accounts, and to take receipts, or make memorandums of monies paid by him, or how otherwise, &c.? Declare, &c.

As to manner of living, &c. expenses of family, &c.

4th. Whether or no were you acquainted with the manner of living of the said A. B., and if yea, at what sum upon the average do you compute the annual expenses of himself and his family to have been, other and besides his travelling expenses; and whether or no had the said A. B. any child who did not live in his family, and in what situation was such child; and have you ever heard the said A. B. make any and what declaration or declarations as to what such child annually cost him; and do you know the manner in which the said A. B. usually travelled in the journeys in which he was employed as Treasury messenger, and at what expense? Declare, &c.

Expenses for travelling.

Whether any other means of providing for his family.

5th. Whether or no has the said A. B. as you, for any and what reason know or believe, any and what means of providing for the expenses of himself and his family, and for the expense of journeys, other than from the monies which he from time to time received from the said F. G.? Declare, &c.

As to similar employments.

6th. Whether or no had you any and what relation or connection, who was a Treasury-messenger at the same time with the said F. G., and if yea, did the said F. G. receive the monies which were due to such your relation or connection in his employ of messenger in the same manner as he received the monies due to the said A. B.; and did the said F. G. from time to time pay over to such your relation or connection the monies which he received from him, or what was the state of the accounts between them at the death of the said F. G.? Declare, &c.

Interrogatories

*Interrogatories as to the Sale, Freightage, and Expenses
of a Ship.*

Between H. D. Plaintiff,
and
G. B. Defendant.

Interrogatories exhibited on behalf, &c. (usual title before a master).

1st. Interrogatory. Whether or no is the ship called the *Sir E. H.*, in the pleadings of this cause mentioned, sold; if yea, when and where, and by whom, and to whom, and at what price was the same so sold; and have you, or hath any other person or persons, and whom, by your order, or to your use, or by the order, or to the use of any other person or persons, and whom, at any time or times, and when respectively, received the said purchase-money, or any and what part thereof, or for what reason doth the same, or any and what part thereof now remain unreceived, and what hath become thereof; and if the said ship be not sold, for what reason does the same remain unsold?

2d. Whether or no have you, or hath any other person or persons, and whom, by your order, or to your use, received any sum or sums of money for the freight of the said ship; if yea, set forth a full, true, and particular account of all, and every such sum and sums of money, which hath or have been received by you, or any other person or persons, by your order, or to your use, for the freight of the said ship, and when respectively, and for what, and from whom, and by whom all and every such sums were so received; and set forth also whether any and what sum or sums of money now remain due and owing in respect of the freight of the said ship, and from whom, and for what all and every such sums are due and owing, and why the same respectively are unreceived?

3d. Whether or no have you paid any sums or sum of money for the seaman's wages, and other charges, in respect of the said ship, forming a prior lien to the demand of the said Plaintiff, or for any bills drawn by the captain of the said ship from the Island of C., for the ship's disbursements; if yea, set forth a full, true, and particular account of all, and every the sum and sums of money, which have, or hath been so paid by you, and when, and to whom, and for what all, and every such sums were respectively paid and disbursed? Set forth, &c.

Interrogatories relative to an Inclosure.

*To prove the
lord's assent to
the inclosure.*

1st. Interrogatory. Whether or no do you know who is the lord of the manor of S., in the county of C., in the pleadings in this cause mentioned, and whether or no has the said lord, or any person, and whom, on his part, in any and what manner, assented to the inclosure of the common lands in the said township of S., and when respectively, and to whom, and upon what terms, and upon whose application or applications; and whether or no, in consequence of any and what agreement or proposal, on the part of the inhabitants or land-owners within the said township; and whether or no is the lord of the said manor still assenting to such inclosure, and whether or no is such inclosure likely to take effect, and how soon? Set forth, &c.

*To prove the
agreement of
the land-owners
to the inclosure.*

2d. Whether or no have the inhabitants or land-owners within the said township of S., or any and which of them, in any and what manner, assented or agreed to the inclosure of the common lands within the said township, or made any and what proposals to any person or persons, and whom, in respect of such inclosure, or taken any and what steps, with a view to such inclosure, and at what time or times respectively; and whether or no are the said inhabitants or land-owners still assenting to the inclosure of the said common lands, or how otherwise; and whether or no is such inclosure likely to take effect, and how soon? Set forth, &c.

*To prove the
survey made at
the general
charge of the
land-owners.*

3d. Whether or no hath any surveyor or other person, been at any time, and when, employed at the charge of the inhabitants or land-owners within the said township, or any and which of them, or any other person, and whom, to survey the common lands within the said township, with a view to the inclosure thereof? Set forth, &c.

*To prove the
general meeting
held between
the proprietors
of S. and the
adjoining
township.*

4th. Whether or no has any general, or other, and what meeting, been held, and when, of the inhabitants and land-owners of the said township of S., and of the inhabitants or land-owners of any and what adjoining township or townships, for the purpose of fixing the limits of the common lands of each township, or for any other, and what purpose, with a view to an intended inclosure of the common lands of the said township of S.? Set forth, &c.

*To prove the
probable quan-
tity of Plain-
tiff's allotment.*

5th. Whether or no do you know, or can you, by any, and what means, form any opinion as to the quantity and quality of the inclosed and common lands within the said township of S.? If yea, what is the quantity of all the inclosed lands within the said township, and what is the quantity of the lands within the said township belonging to the said Complainant, in
the

the pleadings in this cause mentioned, and what is the relative quality of the said inclosed lands within the said township, and what is the quantity of all the common lands within the said township, and what do you estimate would be the fair proportionable quantity of the said common fields, which, in the case of an inclosure, would be allotted to the said Complainant, in respect of his inclosed lands aforesaid, computing the proportion of the said common lands to be allotted to the lord as one twelfth? Set forth, &c.

Interrogatories for the Purpose of examining a Captain of a Packet as to one of his Passengers, &c.

Between M. and others, . . Plaintiffs,
and

S. Defendant.

1st. Interrogatory. Whether or no did you, in the month of , command the packet boat in his Majesty's service, called the, &c. bound from F. to L.; and whether did you, at any time, in or about the said month of , make a voyage in the said packet from F. to L. and on what day did you sail from F., and on what day did you arrive at L.; and whether or no did the Complainant, the honorable Mr. M., sail with you as a passenger in the said packet, on the said passage? And if yea, what name did the said Complainant assume, and under what name did he pass upon the said voyage? Set forth, &c.

2d. Whether or no did you, in the month of see the Complainant, the honorable Mr. M., at L.? If yea, when and where, and upon what occasion, did you first see him; and did any conversation then pass between you and the said Complainant respecting the Defendant, S.? If yea, set forth the particulars of conversation, and what was said thereon by the said Complainant, and by you respectively, according to the best of your knowledge, remembrance, information, and belief?

3d. Whether or no did you, on the day of see the Complainant, the honorable J. M., at L.? If yea, when and where, and upon what occasion, did you first see him, and what passed thereupon, and when, and how soon afterwards did you next see him; and did the said Complainant enter into any conversation with you, or make to you any declarations respecting the Defendant, S.? If yea, set forth the particulars of such conversation or declarations, according to the best of your knowledge, remembrance, and belief, and the truth declare.

4th. Look upon the letters or paper-writings now produced, &c. marked, &c. Of whose hand-writing are the said several letters or paper-writings, and every

of them, or the superscriptions thereof, and the signatures thereto, as you know or believe? And did you ever see the person or persons write whom you believe to have written, superscribed, or signed the same respectively, or by what means are you acquainted with the manner or character of the hand-writing of such person or persons? Set forth, &c.

Interrogatories for a Variety of Matters. To prove a Death—A Register—A Notice—By what Authority an Agreement signed—An Agreement for Lease—Service with Copy—Payments of Annuities—A Conveyance and Receipt of Consideration Money—To prove Note of Hand, and other Matters.

To prove a death.

1st. Interrogatory. Whether or no did you know A.B. of _____ in his life-time, and for how long previous to his death? Was you present at his death? If yea, where was the place of his death, and whom else was present thereat, and how happened it that you was present? Declare, &c.

To prove a register.

2d. Look upon the paper-writing now produced, &c. Did you, at any time, and when, and where, carefully examine the same, with an entry thereof, made in the register book of any and what parish or place? If yea, whether or no is the same a true copy of such entry? Declare, &c.

To prove a notice.

3d. Whether or no did you, at any time on or about the _____ day of _____, or at any other time, and when, deliver to _____, and where, any and what writing, purporting to be a notice from _____, of his desire that _____, or to any such or the like effect? Was or not the name of the said _____, subscribed thereto, of his own proper hand-writing? Did you not see him set or subscribe his name thereto? Did you, or not, keep a copy of such notice or writing, which was so delivered? Look upon the paper-writing now produced, &c. Is the same or not a true copy of such notice or writing, which was so delivered? Did you or not ever examine and compare the said produced writing with the notice or writing so delivered? Declare, &c.

To prove by what authority agreement was signed.

4th. Look at the paper-writing marked with the letter A., and now produced, &c. Whether or no is your name, appearing to be set and subscribed thereto, for the said Defendant, of your proper hand-writing? If yea, when did you so set and subscribe your name thereto; and whether or no had you the instruction or direction of the said Defendant to sign such paper, or any

any such paper, or to make any such agreement, or any other and what agreement, with the said Complainant; or did you, at any time, and when, previously inform him, or intimate to him, that you would, on his part, sign such paper, or make any agreement to any such or what other effect with the said Complainant, and did he approve of such your intention, or how otherwise; or did you at any time, and when, first afterwards inform him, or in any and what manner, intimate to him that you had such paper, or made any agreement, to any effect with the said Complainant, and did he approve thereof, or how otherwise, or with what authority, and with what intention did you so sign and subscribe the said paper-writing or agreement? Set forth, &c.

To prove an agreement for a lease.

5th. Whether or no were you acquainted with R. D., late of _____, but now deceased; and did you ever see the said R. D. write, or are you by any, and what other means, acquainted with the character or manner of hand-writing of the said R. D.? Look upon the paper-writing now produced, &c.; whether or no is the name R. D., appearing to be set and subscribed to the said produced paper-writing marked A., of the proper hand-writing of the said R. D., as you know or believe? Declare, &c.

To prove an agreement for a lease.

6th. Look upon the said paper-writing or agreement now, &c. Whether or no did you, at any time, and when, and where, deliver to the said Defendant any paper-writing, purporting to be a copy of the said paper-writing, and was the same a true copy thereof; and whether or no did you, at the time of delivering such copy, produce to the said Defendant the said original paper-writing, or read the same to him; and did any thing, and what, pass between you and the said Defendant thereupon? Declare, &c.

As to the payment of annuities.

7th. Whether or no are any, and which of the annuitants in the said Testator's will named, living, and have any and which of the said annuitants died, since the death of the said Testator, and when particularly; and have any and what sum or sums of money been paid in discharge of any and which of their said annuities, and in particular, in discharge of the annuities given for the charitable purposes in the said will mentioned, and when, and by whom, and have any and what fund or funds been set apart, and in whose name or names, and in what manner, to answer the same annuities, or any and which of them? Set forth, &c.

To prove conveyance and receipt for consideration indorsed thereon.

8th. Look upon the deeds or parchment writings now, &c. Whether or no was the said produced writings, or either and which of them, at any time, and when, signed, sealed, and delivered, or in any and what manner executed by any person or persons, and whom,

in your presence; and is your name set and subscribed as a witness thereto, of your proper hand-writing? Look upon the writing indorsed upon the back of the said deed or parchment-writing, marked B., and purporting to be a receipt for the sum of £ . Whether or no was such writing so indorsed at any time, and when, signed by any person, and whom, in your presence; and is your name set and subscribed as a witness thereto, of your proper hand-writing? Set forth, &c.

To prove the finding of old deeds, surveys, &c.

9th. Look upon the deeds, papers, or writings produced, &c. What do the same respectively purport to be; were or was not the same, or any or either, and which of them, at or about any and what time or times found, and by whom, and on what occasion, in the custody of any and what persons or person, amongst any deeds or writings relating to any and what, and whose estate; where, and in whose custody have or hath the same, or any or either, and which of them, been, from time to time, for any and how long time, kept, whether, amongst the deeds or writings relating to any and what estate, or how otherwise?

To prove a will, or other writing, in the words it contains.

10th. Whether or no doth the said produced writing, marked, &c. contain the words following, or any and what other words; that is to say (*Here set out an exact copy of the will and attestation*). Have you or not, and when, and with whom, examined and compared the said produced writing, with the words set forth in this interrogatory, as being a copy thereof? Declare, &c.

To prove notice.

11th. Whether or no did you, at any time in or about the year , and on or about what day or days in particular, deliver to Plaintiffs, or either of them, and where, any and what writing, purporting to be a notice from the Defendant, of her desire, that the Defendant should not be disturbed in the possession of any and what house, or to any such or the like effect? Was or not the name of the Defendant subscribed thereto, or to either and which of them? Were both such notices or writings in the same words and figures, or in any and what respect different from each other? Did you or not keep a copy of each or either, and which of such notices or writings, which, if any were or was so delivered? Look upon the paper-writing now produced and shewn to you at this the time of your examination, marked with the letter B. Is the same or not a true copy of each, or either and which of the notices or writings, which, if any, were or was so delivered? Did you or not ever examine and compare the said produced writing, with the notices or writings so delivered, or with either and which of them?

To prove receipts upon deeds.

12th. Look upon, &c. Whether or no were or was any and what receipt or receipts, indorsed thereon, or any, or either and which of them, at or about any and what times or time, by any and what persons or person, in your presence? Are you or not a subscribing witness to the signing of all or any, or either and which of such receipts, by all or any, or either and which of such persons; of whose hand-writing is your name, now appearing to be set or subscribed as a witness, to all or any, and which of such receipts? Declare, &c.

To prove the consideration money mentioned to be paid in a deed to be really and bona fide paid.

13th. What was the true and real consideration of the said deed, marked, &c.? Was or were not any and what sum or sums of money, at or about any and what time or times paid, as, for, or in part of the consideration thereof, and when and where, and by whom, and on whose account, and to whom, and for whom, and for whose use, and for what occasion? Was you or not present at the time of paying the same, or any and what part thereof? Did or not the person who signed the receipt indorsed on the said deed, at or about the time of signing such receipt, say or declare any thing, and what, concerning his having or not having received or been satisfied with the whole, and what part of the money therein expressed to be paid to him? Declare, &c.

To examine as to boundaries, customs, moduses, &c. &c.

14th. Whether or no have you, at any and what time or times, and on what occasion, received any and what information from any and what ancient person or persons who are, or is now deceased, of or concerning all or any, and which of the matters in this interrogatory inquired after? If yea, did you, and do you believe such information to be wholly, or in any and what respect, true or false? When did such person or persons die, and of what age or ages were or was he or they at the respective times of his or their deaths; and had or had not he or they lived at or in the neighbourhood of L. aforesaid, for any and how long time before such information was given? Declare, &c.

To prove a copy of record.

15th. Look upon, &c. Whether or no do or doth the same, or any and which of them, contain a true copy or copies of any and what record or records of any and what court or courts, of any and what other original or originals, of which the same do or doth appear to be a copy or copies? Have you or not carefully examined or compared the said produced writings, or either and which of them, with such, if any, record or records, or other original or originals, and when and where, and with whom? Declare, &c.

To prove copies of the registers, baptisms, &c.

16th. Look upon, &c. Are or is the same, or any or either, and which, true copies, or a true copy of any and what entries or entry, in any and what register or registers, of any and what parishes or parish? Did you

or

or not, ever and when, carefully examine and compare the said produced writings, or any, or either, and which of them, with such respective entries, and where, and with whom, and by whom, are or in which register kept? Declare, &c.

Interrogatory to prove two bonds, and as to the circumstances for which they were executed.

Look upon the two bonds or paper-writings now produced and shewn to you at this the time of your examination, marked with the letters A. and B. Whether or no were the same, or either, and which of them, made and executed by you at the times they respectively bear date, or when else, and under what circumstances, and for what considerations respectively, and on what terms and conditions were you articulated as a clerk to the Testator W. G. in the pleadings in this cause named?

Interrogatory to prove a tender of money, and refusal.

Whether or no did the Defendants, or either, and which of them, or any and what person or persons, on their, or either, and which of their behalf, at any times or time, and when, or about what times or time particularly, and whether before or after the day of tender or offer to pay or satisfy unto any and what persons or person, any, and what sums or sum of money, in or towards discharging any and what legacies or legacy given by the will of ? Were or was not any and what securities or security, and from, and to whom, for payment of any and what sums or sum of money produced, and by whom, at all, or any and which of such times? Did the persons to whom such, if any, tender were offered or made, at any, or either, and which of such times, agree or refuse to accept the money or other satisfaction so offered? How, and in what manner did he, she, or they, at such time or times, express or declare him or herself, or themselves, relating thereto?

To prove the amount of a mortgage debt.

Whether or no was there, on the day of any and what sum of money due and owing to the above named Complainants T. B. and B. B. and their partners in the R. bank, in respect of monies advanced by the said Complainants, to or for the use, or on the account of the said T. B. and B. B. and their said partners or otherwise, and what is now due to the said Complainants in respect thereof? Set forth, &c.

To prove note of hand.

Look upon the paper-writings now produced, &c. and purporting to be a promissory note for £ from A. B. deceased, in the pleadings of this cause named, to the said Complainants, and bearing date the day of . Whether or no did you ever see the said A. B. write, or are you by any other and what means, acquainted with the character and manner of his hand-writing; and whether or no is the name A. B. appearing to be set and subscribed to the said produced paper-writing marked D. of the proper

To prove in what manner and at what time the balance of accounts of partnership were made up, &c.

Interrogatory as to the possession of an estate.

As to what property was possessed specifically bequeathed.

To prove debts due.

Interrogatory to prove the identity of a person.

proper hand-writing of the said A. B. as you, for any and what reason, know or believe? Declare, &c.

In what manner, and at what periods were the balance sheets of the said accounts made up; were or were not such balance sheets from time to time delivered to the said T. B.? If yea, for what reason and for what purpose were such balance sheets made up and delivered to the said T. B.? Did you or did you not at any time and when, during the continuance of the said partnership between the said G. P. and T. B. and yourself, consider the said T. B. entitled to any and what share and proportion of the profits of the said brokerage business? And if he the said T. B. had demanded any share or proportion of such profits in the years when such business was profitable, should you or should you not have complied with such demand, &c.? Set forth, &c.

Was not the said Testator P. C. at his death, possessed of, or in some manner interested in a messuage or tenement at H. in the county of M.? If yea, set forth the particulars of which the same consisted, and from whom, and under what lease or agreement, and for what term, and at, and by what yearly or other rent the same and every part thereof was holden by the said Testator; and set forth also at what rent and other conditions, and for what term of years you have since taken the same, and in whose occupation the same and every part thereof hath been since the death of the said Testator, and now is, and at what rent or rents.

Whether or no have you, or either and which of you, since the death of the said Testator, possessed any and what property of the said Testator which was specifically bequeathed by him, other than and except such moieties as you have delivered to the specific legatees? If yea, set forth a full, true, and particular inventory and account thereof, and of every part thereof, and of all particulars whereof the same consisted, and the quantities, qualities, full, real, and true values of the said particulars respectively.

Whether or no was the Testator W. O. in the pleadings in this cause named, at the time of his death, indebted to the said Complainants P. and S. or either and which of them, in any and what sum or sums of money, and when, and by what means, and on what account did the said Testator so become indebted? Declare, &c.

Whether or no did you know W. G. late of, &c. but now deceased, the Testator in the pleadings of this cause named, for how long a time previous to his death; and did you know S. I. the nephew of the said Testator, and in what profession or situation of life was the said S. I.; and did the said S. I. ever, and when,

serve on board his majesty's ship U. and in what character, and what has become of the said S. I. as you know, or for any and what reason believe? Declare the truth, and your knowledge therein.

To prove the
entry in the
navy-office
books,

Look upon the paper-writing now produced and shewn to you at this the time of your examination, marked with the letter A. Whether or no did you at any time, and when compare the same, with any entry in any, and what book kept at his majesty's navy office; and whether or no is the same a true copy of such entry? Declare, &c.

The Title of Interrogatories for the Examination of a Party pro interesse suo.

Between W. A., J. A., C. A. . . . Plaintiffs,
and

H. S., W. O., J. R., J. T. Defendants.

Interrogatories exhibited before W. W. P. esq., one of the Masters of the High Court of Chancery, for the examination of W. D. a Defendant in this cause, *pro interesse suo*, in certain estates in the pleadings in this cause mentioned, pursuant to an order made by the said Court, bearing date the day of

The Title of Interrogatories for cross Examination of a Party examined, pro interesse suo.

Between W. A., &c. . . . Plaintiff,
and

H. S., &c. &c. . . . Defendant.

Interrogatories exhibited before W. W. P. one of the Masters of the High Court of Chancery for the cross-examination of the above-named Defendant W. O. pursuant to an order made in this cause, bearing date the day of , whereby it was ordered that the said Defendant W. O. be at liberty to go before Mr. P. one of the Masters of the said Court, and be examined, *pro interesse suo*.

SECT. III.—ORDERS.

THERE are many occasions intervening in a cause which require motions or petitions to set them right; some of these are for matters of course. These are commonly called interlocutory orders; sometimes they relate to the prosecuting or carrying on of a cause, and sometimes they are touching process, &c. At other times they are founded on the standing orders of the court, and upon the particular circumstances of the case, and are made upon the application of some person, either Plaintiff or Defendant, interested in, or affected by the cause. When they are made upon hearing counsel on both sides, regard is always had to the general rules of the court; but when they are made by consent of parties, they are often out of the general rules, or course of the court; in which cases the special reasons, moving the court to vary from those rules, are always expressed in such order.

Where any subsequent order is obtained, and a former order, material for the court to take notice of, is concealed, or not truly and fairly represented, no benefit shall be taken of the subsequent order; but the court, upon motion, will either set aside, or alter the same, as obtained surreptitiously; and, therefore, the register, in drawing up such orders, always mentions the next precedent order, in which great care ought to be taken that it be fully and truly recited, lest a mistake therein should vitiate the order.

Order for Injunction on Attachment for Want of Appearance.

Forasmuch as this court was this present day informed by Mr. of counsel for the Plaintiff, that the Defendant being served with process to appear to and answer the Plaintiff's bill, refuses so to do; but sits an attachment in contempt for want of his appearance, and yet in the mean time prosecutes the Plaintiff at law, for the matters in the bill complained of; and it is thereupon ordered that an injunction be awarded for stay of the Defendant's proceedings at law, for and touching any matters here in question, until the Defendant shall appear to the Plaintiff's bill, clear his contempt, and this court make other order to the contrary; but the Defendant is in the mean time at liberty to call for a plea and proceed to trial thereon, and for want of a plea to enter up judgment; but execution is hereby stayed.

Order for Injunction on Attachment for Want of Answer.

Forasmuch as, &c. that Defendant being served with process to appear to and answer the Plaintiff's bill, hath appeared accordingly; but sits out all process of contempt for want of his answer. And yet, &c. (*Vide Above.*)

Order for Injunction on Dedimus, and Order for Time.

Forasmuch as, &c. that Defendant being served with process to appear to and answer the plaintiff's bill, hath appeared accordingly; but for delay hath craved a commission to answer in the country, or obtained an order for time to answer. And yet, &c. (*As above, except leaving out the words relating to the contempt.*)

Order for Injunction to stay Waste.

Upon opening, &c. (here state the case,) to be relieved wherein, and for an injunction, the Plaintiff hath exhibited his bill in this court against the Defendant, as by the Six Clerks certificate appears. And therefore it was prayed that an injunction may be awarded against the Defendant to restrain him, his servants, workmen, and agents, from committing any waste or spoil upon the premises in question, until the Defendant shall fully answer the Plaintiff's bill, and this court make other order to the contrary, which, upon reading the said affidavit, is ordered accordingly.

N. B. The case to be stated from the affidavit only, except when an answer has been put in to an original bill, and a supplemental bill afterwards states the waste.

Order for an Injunction to stay Printing Books.

Upon opening, &c. (same as last), and therefore it was prayed that an injunction may be awarded against the Defendant, to restrain him, his

his servants, workmen, and agents, from printing, publishing, and vending the said, &c. until, &c.

Order for an Injunction on a Dedimus, and to extend to stay Proceedings on Plaintiff's Bail Bond.

Upon motion this day made unto this court, by Mr. _____ being of counsel, &c. it was alledged that the Defendant, being served with process to appear to and answer the Plaintiff's bill, hath appeared accordingly; but for delay hath craved a commission to answer in the country, and yet in the mean time prosecutes the Plaintiff at law for the matters in the bill complained of. And the Defendant having obtained an assignment of the bail bond, entered into by the Plaintiff to the sheriff, to the action at law, is also proceeding thereon at law against the Plaintiff's bail. It was therefore prayed, that an injunction may be awarded for stay of the Defendant's proceedings at law against the Plaintiff's bail, upon the assignment of the bail bond, whereupon, and upon hearing an affidavit of notice of this motion, &c. It is ordered, that an injunction be awarded, &c. but execution is hereby stayed. It is further ordered, that the said Defendant be also restrained from proceedings at law, to take out execution against the Plaintiff's bail, until he shall fully answer the Plaintiff's bill, and this court make other order to the contrary.

This was made in a case of "Stone v. Tuffin," the 8th December, 1744. Temp. Lord Hardwicke, C.

Order to dissolve Injunction nisi.

Whereas the Plaintiff obtained an injunction for stay of the Defendant's proceedings at law till answer, and other order to the contrary, now upon motion this day made by Mr. _____, being of the Defendant's counsel. It was alledged, that the Defendant hath since put in a full and perfect answer to the Plaintiff's bill, and hereby denied the whole equity thereof. And therefore it was prayed that the said injunction may be dissolved, which is ordered accordingly, unless the Plaintiff, his clerk in court having notice hereof, shall on _____ shew unto this court good cause to the contrary.

Order to amend by adding Parties on paying Costs of the Day.

This cause coming on this present day, to be heard and debated before the Right Honorable the Lord High Chancellor of Great Britain, in the presence of counsel learned on both sides, and the pleadings in the cause being opened, upon debate of the matter, and hearing of what was alledged by the counsel on both sides, his Lordship doth order that this cause do stand over, and that the Plaintiffs be at liberty to amend their bill by adding parties thereto, or otherwise, as they shall be advised; but the Plaintiffs are to pay unto the Defendants the costs of the day.

Order to dismiss Bill for Want of Prosecution.

Upon motion this day made unto this court, by Mr. _____, of counsel for the above named Defendants, it was alledged that this cause came on to be heard on the _____ day of _____, when it was ordered, &c. that the Plaintiffs have not stirred a step in the cause since the date of the said order; and therefore it was prayed that the Plaintiffs may within a fortnight amend their bill, pursuant to the said order, or in default thereof, that the said order may be discharged, and that the Plaintiff's bill may stand dismissed as to the said Defendants, with costs to be taxed, which, upon hearing an affidavit of notice of this motion read, is ordered accordingly. And it is hereby referred to Mr. _____, one of the masters of this court, to tax the said costs.

Order where a Notice to sue out Execution had been served, that the same should stand over, and the Benefit of the Notice saved.

Whereas the Defendant gave notice that this court would be moved on the _____ day of _____ instant, that the Defendant might be at liberty to sue out execution against the Plaintiff, in the action brought by him, the Defendant, against the Plaintiff, in his Majesty's court of K. B. on the said Plaintiff's note of hand for £ _____ and interest. And whereas the benefit of the said notice has been saved by order to this day. Now, upon motion this day made unto this court by Mr. _____, of counsel for the Defendant, it was prayed that the benefit of the said notice may be further saved to the first day of next Trinity Term, which is ordered accordingly.

Order to amend a Bill on Payment of 20s. Costs.

Upon motion, &c. it was alleged that the Defendant having put in his answer to the Plaintiff's bill, the Plaintiff, upon perusal thereof, is advised to amend his bill; and therefore it was prayed that the Plaintiff may be at liberty to amend his bill, as he shall be advised, upon payment of 20s. costs to the Defendant in respect thereof, which is ordered accordingly.

Order to amend a Bill without Costs, the Defendant having appeared but not answered.

Upon motion, &c. it was alledged, that the Plaintiff having exhibited his bill in this court against the Defendant, he appeared thereto, and the Plaintiff is since advised to amend his bill; therefore, and in regard the Defendant hath not yet put in his answer. It was prayed that the Plaintiff may be at liberty to amend his bill, as he shall be advised, without costs, which is ordered accordingly; but the Plaintiff is to amend the Defendant's copy of the bill.

Order to amend a Bill without Costs, the Defendant not having appeared.

Upon motion, &c. it was alledged that the Plaintiff hath exhibited his bill into this court against the Defendant, and is since advised to amend the same; therefore, and in regard the Defendant hath not yet appeared to the Plaintiff's bill. It was prayed that the Plaintiff may be at liberty to amend his bill as he shall be advised, without costs, which is ordered accordingly.

Order to amend a Bill without Costs after Answer.

Upon motion, &c. it was alledged that some of the Defendants having put in their answer to the Plaintiffs' bill, the Plaintiffs, upon perusal thereof, are advised to amend their bill, but shall not require any further answer from the Defendants; and therefore it was prayed that the Plaintiffs may be at liberty to amend their bill, as they shall be advised, without costs, which is ordered accordingly, the Plaintiffs amending the Defendants' copy of the bill.

Order to amend a Bill and answer Exceptions at the same Time.

Upon motion, &c. it was alledged that the Plaintiff having exceptions to the Defendant's answers, the same hath been reported insufficient, (or) the Defendant submitted to put in a further answer. It was therefore prayed that the Plaintiff may be at liberty to amend his bill, without costs, and that the Defendant may answer the Plaintiff's amended bill, at the same time he answers the said exceptions, which is ordered accordingly, the Plaintiff amending the Defendant's copy.

Order to withdraw a Replication, and amend a Bill.

Upon motion, &c. it was alledged that the Defendants having put in their answer to the Plaintiff's bill, the Plaintiff replied to such answer, and is since advised to amend his bill, and therefore it was prayed that the Plaintiff may be at liberty to withdraw his replication, and amend his bill, on payment of 20s. costs to the Defendant, in respect thereof, which is ordered accordingly.

N. B. It is ordered that where exceptions to answer are allowed, the Defendants, if they have answered separately, must, upon application to the court for time to answer said exceptions, make separate motions, otherwise if answer is put in jointly.

Order to amend Answer.

Forasmuch, &c. that the Defendant since putting in his answer to the Plaintiff's bill hath discovered that in the title to his said answer he hath made a mistake in the christian name of the Plaintiff, by calling him instead of . It is therefore prayed that the Defendant be at liberty to take his said answer off the file, and amend the
the

the same in the title thereof, by naming the Plaintiff instead of
 , and that after such amendment the Defendant do re-swear the
 said answer.

Order to amend a Bill, by adding Parties, requiring no further Answer from the Defendants who have answered.

Upon motion, &c. it was alledged that some of the Defendants having put in their answer to the Plaintiffs' bill, the Plaintiffs are advised to amend their bill by adding Defendants thereto, but shall not require further answers from the said Defendants who have already answered; and therefore it was prayed, that the Plaintiffs may be at liberty to amend their bill as they shall be advised, by making the Defendants thereto with apt words to charge them, which is ordered accordingly, but the Plaintiffs are to amend the Defendants copies of the bill.

Order to amend by making some of the Plaintiffs Defendants.

Upon motion, &c. it was alledged that the present Plaintiffs, together with , having exhibited their bill in this court against the Defendants, are advised to strike out the names of the said from being Complainants, and to name them Defendants; and therefore it was prayed, that the Plaintiffs may be at liberty to amend their bill without costs, by striking out the said from being Complainants, and by making them Defendants, which is ordered accordingly, but the Plaintiffs are to amend the Defendants' copies of the bill.

Order to amend a Bill on Payment of 20s. Costs to some of the Defendants, and without Costs as to others, requiring no further Answer.

Upon motion, &c. it was alledged, that since the coming in of some of the Defendants' answers, the Plaintiffs are advised to amend their bill, but shall not require any further answer from the said Defendants who have answered; and therefore it was prayed, that the Plaintiffs may be at liberty to amend their bill on payment of 20s. costs to the Defendants, from whom they shall require further answer, and without costs as to the Defendants from whom they shall not require further answers, amending their copies of the bill, which is ordered accordingly.

Order to amend a Bill without Costs, the Defendant submitting to put in a further Answer.

Upon motion, &c. it was alledged that the Plaintiff having taken exceptions to the Defendant's answer, the Defendant hath submitted to put in a further answer, since which the Plaintiff is advised to amend his bill, and the Defendant not having yet put in a further answer, it was prayed that the Plaintiff may be at liberty to amend his bill as he shall be advised, without costs, which is ordered accordingly, the Plaintiffs amending the Defendant's copy of the bill.

Order

Order to amend a Bill after Answer, the Plaintiff having excepted thereto, and no other Answer coming in.

Upon motion, &c. it was alledged that the Defendants having put in their answers to the Plaintiff's bill, the Plaintiff hath taken exceptions thereto, since which the Defendants hath not put in any other answer, and the Plaintiff is advised to amend his bill; and therefore it was prayed, that the Plaintiff may be at liberty to amend his bill, as he shall be advised, without costs, which is ordered accordingly, amending the Defendants copies of the bill.

Order for an Attachment, and all other Proceedings of Contempt returnable immediately.

Upon motion, &c. it was alledged that the Defendant is in contempt to an attachment for want of his answer to the Plaintiff's bill, and lives within miles of L., as by affidavit now read appears. It was therefore prayed that an attachment, and all other process of contempt may be awarded against the said Defendant returnable immediately, to compel him to answer the Plaintiff's bill, which is ordered accordingly.

Order to appoint a Defendant a Clerk in Court, pursuant to the Statute.

Forasmuch as the Defendant was this day brought to the bar of this court by virtue of a writ of H. C., directed to the warden of the Fleet, to answer his contempt in not appearing to the Plaintiff's bill, and now refusing or neglecting to enter his appearance, or to appoint a clerk in court to act in his behalf, and Mr. of counsel with the Plaintiff, moving the Right Hon. that the court would pursuant to the late act of parliament in that case made and provided, appoint one of the sworn clerks of this court to appear for the said Defendant in this cause, as if the said Defendant had actually appeared. It is ordered that one of the sworn clerks of this court do enter an appearance for the said Defendant to the Plaintiff's bill, and that the said Mr. be remanded; and that upon the said Mr. his entering such appearance for him, and the said Defendant clearing his contempt, the said Defendant be discharged out of custody of the warden of the Fleet from his said contempt.

Order to accept Exceptions.

Upon motion, &c. upon the hearing, it was alledged that the Defendant on the day of put in his answer to the Plaintiff's bill, and the Plaintiff hath taken exceptions to such answer; but in regard the said exceptions did not come in by the time limited: by the rules of the court, the Defendant's clerk in court refuses to accept the same, and therefore it was prayed that the said Defendant's clerk in court may accept the said exceptions, as if the same had been delivered in time, which is ordered accordingly.

N. B. If two terms are expired since filing the answer, this order is not granted but upon special allegation.

Order

Order to refer Exceptions at Defendant's Request.

Forasmuch, &c. that the Defendant having put in his answer to the Plaintiff's bill, the Plaintiff for delay hath taken exceptions thereto, although the Defendant's answer is very sufficient, as the Defendant is advised. And it is thereupon ordered.

Order to refer Exceptions.

Forasmuch, &c. that the Plaintiff having taken exceptions to the Defendant's answer, the Defendant hath not amended the same by the time limited by the rules of the court. It is thereupon ordered to be referred to Mr. one of the masters of this court, to look into the Plaintiff's bill, the Defendant's said answer, and the Plaintiff's said exceptions, and certify whether the said answer be sufficient or not.

Order to stay Proceedings on the Master's Report, Exceptions being filed.

Upon motion, &c. it was alledged that the Plaintiff had filed exceptions to the report made in this cause by Mr. one, &c. dated the day of and deposited £ with the register, according to the rule, as by the register's certificate appears. It was therefore prayed, that all proceedings on the master's report may be stayed, until the exceptions shall be argued and determined, which is ordered accordingly.

Order to procure a Report in Days, and continue an Injunction in the mean time.

Whereas by an order of the day of for the reasons therein contained, it is ordered, that the injunction, granted in this cause, for stay of the Defendant's proceedings at law should be dissolved, unless the Plaintiff, his clerk in court having notice thereof, should on this day shew unto this court good cause to the contrary. Now, upon motion, &c. it was alledged, that the Defendant having put in an insufficient answer to the Plaintiff's bill, the Plaintiff hath taken exceptions thereto, since which the Defendant hath not put in any further answer, although the Defendant's is very insufficient, as the Plaintiff is advised; and therefore it was prayed, that the said injunction may be continued until the said Defendant hath put in a perfect answer to the Plaintiff's bill. Whereupon, and upon hearing of what was alledged by the counsel on both sides, it is ordered, that it be referred to Mr. one, &c. to look into the Plaintiff's bill, the Defendant's said answer, and the Plaintiff's said exceptions, and certify whether the said answer be sufficient or not. But the Plaintiff is to procure the master's report in days, or in default thereof the said injunction is to stand dissolved without further motion, which in the mean time is hereby continued.

Examination to refer.

Upon motion, &c. that the Defendant having put in his examination
to

to certain interrogatories exhibited by the Plaintiff, before Mr. one, &c. pursuant to the decree in this cause, the said Defendant hath since put in his examination to the said interrogatories, which the Plaintiff is advised is insufficient; and therefore it was prayed, that it may be referred to the said master to look into the said interrogatories and examination, and to certify whether the said examination be sufficient or not, which is ordered accordingly.

Order to refer Examination of Commissioners of Sequestration.

Upon opening, &c. per Defendant, it was alledged that of the commissioners, named in a commission of sequestration awarded against the Defendant, having been examined on interrogatories before Mr. one, &c. have, as the said Defendant is advised, put in an insufficient examination thereto. It is ordered that it be referred to the said master to look into the said exceptions, and certify whether the same be sufficient or not.

Order for a Commission to assign a Guardian.

Upon motion, &c. it was alledged, that the Plaintiff hath exhibited his bill into this court against the Defendants, who live in . . . Therefore, and in regard the Defendant is an infant, and he and the other Defendants are not in contempt, and have not had any order for time. It was prayed that a commission may issue directed to certain commissioners, to be therein named, to call the Defendant, the infant, before them, to choose him a guardian, by whom he may answer the Plaintiff's bill, and defend this suit, and that such guardian, so to be chosen, stand assigned by the court; and that the said commissioners may take and return the said Defendant the infant's answer, and also the answer of the other Defendants to the Plaintiff's bill by such commission, and may have time to take and return the same, which is ordered accordingly.

Order for Commission to examine in Term-time.

Upon motion, &c. that a commission hath issued for the examination of witnesses in this cause; and therefore it was prayed, that may be at liberty to execute the said commission in term-time, which is ordered accordingly.

Order for Commission to examine Witnesses.

Upon motion, &c. that has several material witnesses to examine, who live in the country, and therefore it was prayed that may have a commission [for the examination of witnesses, and that the Defendant's clerk in court, in days after notice hereof, join and strike commissioners names with the Plaintiffs' clerk in court, or in default thereof, that the Plaintiffs may be liberty to take out such commission, directed to their own commissioners, which is ordered accordingly].

Order for a Subpoena to rejoin, returnable immediately, and for a Commission.

Upon motion, &c. it was alledged that the Plaintiff has replied to the Defendant's answer, and therefore it was prayed that a subpoena to rejoin may be awarded against the said Defendant, returnable immediately; and that service thereof on the said Defendant's clerk in court may be deemed good service on the said Defendant, and that the Plaintiff's may have a commission (same as the foregoing between crotchets).

Order to renew a Commission.

Upon motion, &c. it was alledged, that this cause being at issue, a commission issued the last term for the examination of witnesses, but the said commission was not executed, and it being the Plaintiff's own delay, it was therefore prayed that the Plaintiff may be at liberty to renew the said commission for the examination of witnesses, directed to the former commissioners, which is ordered accordingly.

Order to appoint a Guardian in Court.

The Defendant the infant, this day personally appeared before the Right Hon. and prayed that may be assigned his guardian, by whom he may answer the Plaintiff's bill, and defend this suit, which is ordered accordingly.

Order to dismiss without Costs, Defendant not having appeared.

Upon motion, &c. that the Plaintiff having exhibited his bill in this court against the Defendant, is since advised to proceed no further therein; therefore, and in regard that the Defendant had not appeared thereto, it was prayed that the Plaintiff's bill may stand dismissed out of this court without costs, which is ordered accordingly.

Order to dismiss a Bill after Answer, Plaintiff not having proceeded.

Forasmuch, &c. that the Defendant put in his answer to the Plaintiff's bill, on the day of since which the Plaintiff hath not further proceeded in this cause, as by the six clerks' certificate appears. It is therefore ordered that the Plaintiff's bill do stand dismissed out of this court with costs to be taxed by Mr. one of the masters of this court.

Order for a Commission to plead, &c.

Upon motion, &c. per Defendant, it was alledged that the Defendant lives in , and is advised to plead and demur to part, at least, of Plaintiff's bill; therefore, and in regard the Defendants are not in contempt, and have obtained order for time to answer, it was prayed that they may be at liberty to take out commission, to take their plea, answer,

swer, or demurrer, to the Plaintiff's bill, and that the Plaintiff's clerk in court may, in two days after notice hereof, give the Defendants' clerk in court, commissioners names to see the Defendants' plea, answer, or demurrer taken, or in default thereof, that the said Defendant may be at liberty to take out such commission directed to their own commissioners, and may have six weeks time to return the said commission, which is ordered accordingly, but the Defendants are not to demur alone.

Order to dismiss a Bill after a Replication.

Forasmuch, &c. per Defendant, that the Plaintiff having exhibited his bill in this court against the Defendants, they put in their answer thereto, and the Plaintiff's replication to such answer was filed, the day of _____, as by the six clerks' certificate appears, which Plaintiff hath not further proceeded in this cause against the Defendant towards the hearing thereof; and thereupon it was prayed that the Plaintiff's bill may stand dismissed out of this court, with costs, for want of prosecution; which, upon reading an affidavit of notice of this motion, and six clerks' certificate, is ordered accordingly, and that it be referred to Mr. _____, one, &c. to tax the said costs.

Order to dismiss a Bill with Costs at the Plaintiff's Request.

Upon motion, &c. it was alleged, that the Plaintiff, having exhibited his bill in this court against the Defendant, is since advised to proceed no further therein; and therefore it was prayed that the Plaintiff's bill may stand dismissed out of this court, with costs, which is ordered accordingly; and it is hereby referred to Mr. _____, one, &c. to tax the said costs.

Order to dismiss a Bill without Costs by Consent.

Upon motion, &c. it was alleged that the Plaintiffs, having exhibited their bill in this court against the Defendants, the matters in difference are since accommodated; therefore it was prayed that the Plaintiffs' bill may stand dismissed out of this court, without costs, which, upon hearing of Mr. _____, of counsel for the said Defendants, who consented thereto, is ordered accordingly.

Order for a general Dismission at Defendant's Request upon the Hearing, Plaintiff having not come into Court.

The cause standing this day in the paper of causes to be heard, at the request of the Defendant, before the right honorable _____, in the presence of the Defendant's counsel, none appearing for the Plaintiffs to open their bill, although the Defendants were duly served with subpoena to hear judgment, as by affidavit now produced and read appears; it is ordered that the Plaintiffs' bill do, from henceforth, stand absolutely dismissed out of this court, with costs, to be taxed by Mr. _____, one of the masters of this court.

Order to answer by Committee.

Upon motion, &c. that the Plaintiff hath exhibited his bill in this court against the Defendant, against whom a commission of lunacy hath issued, and hath been appointed his committee, and the said lunatic living in the county of , it was prayed that the said lunatic may be at liberty to put in his answer by his said committee, and may have a commission for that purpose, which is ordered accordingly.

Order for Time to answer.

Upon motion, &c. it was alleged that the Defendants are preparing their answer to the Plaintiff's bill, but cannot perfect the same in time; therefore, and in regard the said Defendants are not in contempt, and have had no order for time to answer, it was prayed that the said Defendants may have time to put in their answer to the Plaintiff's bill, which is ordered accordingly.

N. B. If the Defendant moves for time to plead, answer, or demur, add, at the end, the words following:—"But the Defendant is not to demur alone."

Order for Time to answer Cross Bill, after Answer put in to original Bill.

Upon motion, &c. it was alleged that the Plaintiff, having exhibited his bill in this Court against the Defendant, he hath appeared thereto, and hath since exhibited his cross bill in this court against the Plaintiff, and is proceeding to compel the Plaintiff to answer the same; it was therefore prayed that the Plaintiff may have time to put in his answer to the cross bill, after the Defendant shall have put in his answer to the original bill, which is ordered accordingly.

Order for a general Dismission on Hearing.

This cause coming on this present day to be heard and debated before the right honorable the , in the presence of counsel learned on both sides, upon debate of the matter and hearing, &c. &c. read, and of what was alleged by the counsel on both sides, his Lordship doth order that the Plaintiff's bill do, from henceforth, stand absolutely dismissed out of this court, with costs, to be taxed by Mr. , one, &c.

Order to dismiss a Bill of Review on Hearing.

This cause coming on, &c. and the pleadings in the cause being opened, and the scope of the Plaintiff's bill being, that, for many errors thereby assigned, and other defaults, appearing in a decree made by the right honorable the , on the hearing an original cause, wherein the Plaintiff's Testator was Plaintiff, and the decree, bearing date the , which had been received, reversed, and amended, and the Plaintiffs relieved, and was entitled to, or ought to have been; whereupon, and upon debate of the matter, and hearing of read, and
of

of what was alleged by the counsel for _____, his Lordship doth order, that, &c. [the same as the foregoing.]

Order to give Security before obliged to answer.

Upon motion, &c. per Defendant, it was alleged, that it appears by the Plaintiff's bill that the Plaintiff lives in _____, in parts beyond seas, and therefore it was prayed that the Plaintiff may procure some sufficient person on his behalf to give security, according to the course of the court, to the two senior Six Clerks of this court, not towards the cause, in a bond of £ _____, conditioned to answer costs, in case the court shall think fit to award any, before the Defendants be obliged to put in their answer to the Plaintiff's bill, and that the Defendant may have a fortnight's time to put in his answer to the Plaintiff's bill, after the Plaintiff has given such security, which is ordered accordingly.

N. B. If the Plaintiff do not state himself abroad by his bill, this order is not granted, but on affidavit of the Plaintiff's being abroad.

Order to answer, without Oath or Attestation, upon Honor.

Upon motion, &c. it was alleged, that the Plaintiffs are willing to accept the answer of the Defendant _____, without his attestation, upon honor, and the answer of the other Defendants without oath; and therefore it was prayed that the said _____ may be at liberty to put in his answer to the Plaintiff's bill, without his attestation, upon honor, and that the other Defendants may be at liberty to put in their answer to the Plaintiff's said bill without oath; which is ordered accordingly.

Order for Time to answer on entering an Appearance.

Upon motion, &c. per Defendant, it was alleged, that the said Defendant is in contempt to an attachment for want of his answer to the Plaintiff's bill, but that he is preparing his answer, and therefore it was prayed that he may have a week's time to put in his answer; whereupon it is ordered, upon the Defendant's entering with the register, by his clerk, in two days, and consenting that the serjeant at arms attending this court shall go against him, as in the case of a commission of rebellion, returned *non est inventus*, in case he shall not put in his answer to the Plaintiff's bill by the time hereinafter mentioned, that the said Defendant have _____ time to put in his answer to the Plaintiff's bill.

N. B. If a corporation, it must be "that a sequestration shall issue," instead of "the serjeant at arms."

Order to answer separate, and Commission abroad to assign Guardian.

Upon motion, &c. that the matters in difference in this cause arise in right of the said _____, the wife of the said _____, and she residing at present in the kingdom of _____, is advised to answer separate _____ rate

rate from the said , her husband, and being an infant, and not having obtained any order for time, and not being in contempt; it was therefore prayed that the said Defendant may be at liberty to put in her answer to the Plaintiff's bill separate from her said husband, and that a commission may issue, directed to the kingdom of , &c.

Order to answer separate.

Upon motion, &c. per Defendant, it was alleged, that the Plaintiffs have exhibited their bill in this court against the Defendants, and she and the Defendant her husband have lived separate some years; and therefore it was prayed that the said Defendant may be at liberty to put in her answer to the Plaintiffs' bill separate from her husband, which is ordered accordingly.

Order to refer Defendant's Answer to the Plaintiff's Bill to the Master for Impertinence and Scandal.

Forasmuch, &c. per Plaintiff, that the Plaintiff, upon perusal of Defendant's answer to the Plaintiff's bill, is advised the same is scandalous and impertinent; it is thereupon ordered that it may be referred to Mr. , one, &c. to look into the Plaintiff's bill and the said Defendant's answer, and certify whether the same be scandalous and impertinent or not.

Order to refer a Bill for Scandal and Impertinence.

Forasmuch, &c. per Defendant, that the Defendant, upon the perusal of the Plaintiff's bill, is advised that the same is scandalous and impertinent; it is thereupon ordered, that it be referred to Mr. , one, &c. to look into the Plaintiff's bill, and certify whether the same be scandalous and impertinent or not.

Order to expunge the Impertinence of the Plaintiff's Bill, and to tax Costs on Motion.

Whereas by an order, dated, &c. suggesting (*insert the order of reference to the master*), upon motion, &c. per Defendant, it was alleged that the said master, in pursuance of the said order of the , made his report, and certified the Plaintiff's bill to be impertinent in the particulars therein mentioned; it was therefore prayed, that it may be referred back to the said master to expunge the impertinence of the Plaintiff's bill, and to tax the Defendant his costs in respect thereof, which is ordered accordingly.

To accept Bill, paying Costs out of Purse.

Upon opening, &c. it was alleged, that the Plaintiff, being advised to exhibit his bill in this court against the Defendant, to be relieved touching several matters, and, among other things, to obtain an injunction to stay the Defendant's proceedings, served the Defendant with a subpoena to appear to and answer the same, and the Defendant appeared accordingly,

ingly, and (the bill not being filed in time) preferred costs for want thereof; that the Plaintiff hath since filed his bill, but the Defendant's clerk in court refuses to accept the same, and therefore it was prayed that the Defendant's clerk in court may accept the Plaintiff's bill, on payment of the Defendant's costs, out of purse, which is ordered accordingly.

Order for Commitment to Prison of the Fleet, the fourth Answer being reported insufficient.

Forasmuch, &c. per Plaintiff, that the fourth Answer of the said Defendants to the Plaintiff's bill hath been reported insufficient by Mr. , one, &c. by his report of the , it is thereupon ordered that the said Defendant be examined upon interrogatories, before the said master, to the points wherein his said answer is reported insufficient, and that he do stand committed to the prison of the Fleet until he shall fully answer the Plaintiff's bill, and this court make other order to the contrary, and the Plaintiff is to exhibit interrogatories before the said master for the purpose.

Order to examine a Defendant.

Upon motion it was alleged, that the Defendant is a material witness for the Plaintiff, and no ways concerned in point of interest in the matters in question in this cause, and therefore it was prayed that the Plaintiff may be at liberty to examine the said Defendant as a witness for him in this cause, saving all just exceptions; which is ordered accordingly, of which notice is to be given forthwith.

Order to examine Witnesses de bene esse.

Upon motion, &c. it was alleged that are material witnesses for the in this cause. That it appears by the affidavit of that, &c. (*state affidavit*) that be at liberty to examine the said as witnesses for him in this cause, *de bene esse*.

N. B. The witnesses names and ages must be specified in the order as you find them in the affidavit.

N. B. The depositions of witnesses examined *de bene esse*, cannot be published without an affidavit that they are dead, abroad, or not able to travel, unless they have been examined in chief, then they are published in the usual way.

Order to enlarge Publication.

Upon motion, &c. it was alleged that publication in this cause is to pass by . That the several material witnesses to whom he hath not been able to get examined by the time limited by the rules of the court (or) by the said order. And therefore it was prayed that publication in this cause may be enlarged in this cause until , which is ordered accordingly.

N. B. If

N. B. If the Defendant moves, and the cause is not set down, add the following words at the end.—“But this is not to hinder the Plaintiff setting down the cause in the mean time.”

Order to pass Publication.

Upon motion, &c. it was alledged, that the Defendant having put in his answer to the Plaintiff's bill, the Plaintiff has replied thereto, and witnesses have been examined, and therefore it was prayed that publication in this cause may forthwith pass, which upon reading, &c. is ordered accordingly.

Order to enlarge Publication when it has passed.

Upon motion, &c. it was alledged, that publication by _____ past before the _____ could procure all his witnesses to be examined. Therefore, and in regard the _____ has several material witnesses to examine, as by affidavit appears. And inasmuch as the _____ his clerk in court and solicitor have made the usual affidavits, that they have not seen, heard, read, or been informed of the depositions already taken in this cause until publication shall hereafter pass. It was therefore prayed that publication in this cause may be enlarged until _____, which, upon hearing, &c. read, is ordered accordingly.

Order to use Depositions.

Upon motion, &c. it was alledged, that these are cross causes, touching the several matters, and the _____ are advised, that the depositions taken in one cause will be useful in the other, and therefore it was prayed that the depositions taken in either of these causes may be read and made use of in the other at the hearing of these causes, which is ordered accordingly, saving all just exceptions.

Order to confirm a Report upon Commissioner's Certificate or as to Purchaser.

Upon motion, &c. And upon producing * a report made in this cause by Mr. _____ one of the masters of this court, dated _____ † It is ordered that the said report, and all the matters and things therein contained, do stand ratified and confirmed by the order, authority, and decree of this court, to be observed and performed by all parties thereto, according to the tenor and true meaning thereof, ‡ unless the _____ having notice hereof, shall, within eight days after such notice, shew unto this court good cause to the contrary.

* A certificate dated the _____ made by commissioners named in a commission issued out of this court for dividing the estate in question in this cause.

N. B. the certificate must be filed in the Six Clerks' Office.

† If upon a purchase, introduce the following words.—“Whereby
“ Mr. _____ is reported the best purchaser of the estate therein mentioned, at the sum of £ _____,” it is ordered, &c.

‡ If

‡ If the parties are many in number, 15 at least, and live remote, say, unless the parties concerned, who are many in number, and live remote from each other, their respective clerks in court having notice hereof, &c."

¶ If the bill has been decreed to be taken *pro confesso* against the Defendants instead of unless, &c. add the following words.—"The Plaintiff's bill having been decreed to be taken *pro confesso* against the Defendants for want of their appearance, pursuant to the act of parliament, for making process in courts of equity effectual against persons who abscond and cannot be served therewith, or who refuse to appear."

Order to confirm Report by Consent of some Defendants, and nisi as to others.

Upon, &c. (go to the words "unless," as in the foregoing order, and then say) Mr. of counsel for the Defendants consenting thereto, and unless the Defendants having notice hereof.

Order to confirm a Report absolute.

Whereas by an order made in this cause, the day of , it was ordered that (order nisi) now upon, &c. It was alledged that due notice hath been given of the said order to as by affidavit appears, and that no cause is shewn to the contrary thereof, as by the register's certificate also appears. And therefore it was prayed that the said order may be made absolute, which is ordered accordingly.

Admittance of a Defendant in formâ pauperis.

The Defendant in respect of his poverty, whereof affidavit is made, is this day admitted by to defend this suit in *formâ pauperis*, and is hereby assigned for his counsel, and for his six clerk.

Admittance of Plaintiff in formâ pauperis.

The Plaintiff in respect of his poverty, whereof affidavit is made, is this day admitted by the right honorable to prosecute this suit in *formâ pauperis*, and who hath signed the Plaintiff's petition, signifying his just cause of suit, is hereby assigned for his counsel, and for his six clerk.

Order to serve an Attorney at Law.

Upon motion, &c. it was alledged that the Defendant prosecutes the Plaintiff at law, and cannot be found to be served with a *subpoena*, as by affidavit appears, and therefore it was prayed, that service of a *subpoena* to appear to and answer the Plaintiff's bill upon the Defendant's attorney at law, be deemed good service on the Defendant to compel him to appear to and answer the Plaintiff's bill; which, upon hearing the said affidavit read, is ordered accordingly.

Order

Order for an Election either to proceed at Law or Equity.

Forasmuch, &c. that the Plaintiff prosecute the Defendant both at law and in this court for one and the same matter, whereby he is doubly vexed. It is thereupon ordered that the Plaintiff, his clerk in court, and attorney at law having notice hereof, do, within eight days after such notice, make his election in which court he will proceed, and if the Plaintiff shall elect to proceed in this court, then the Plaintiff's proceedings are hereby stayed by injunction, but in default of such election by the time aforesaid, or if the Plaintiff shall elect to proceed at law, then the Plaintiff's bill is from thenceforth to stand dismissed out of this court, with costs, to be taxed by Mr. one, &c.

N. B. The Defendant cannot regularly apply for this order 'till he has answered. The Plaintiff cannot make a special election without leave of the court. Election must be filed in the report office.

Order to enter Order nunc pro tunc.

Upon motion, &c. it was alledged, that the order made in this cause, the day of was drawn up, but by mistake was omitted to be entered, and therefore it was prayed that the said order may be entered *nunc pro tunc*, which is ordered accordingly.

Order to revive Proceedings.

Upon motion, &c. it was alledged, that (*state bill of revivor*) that the suit being abated by the death of the said the Plaintiff hath since exhibited his bill of revivor in this Court against the Defendant to which he hath appeared, *but his time for answering is expired*. And therefore it was prayed that the said suit and proceedings may stand revived, and be in the same plight and condition as they were in at the time of the death of the said which is ordered accordingly.

N. B. If the Defendant submits, say, instead of words in italics, "and put in his answer, and thereby submits the suit may be revived."

Order to refer second Answer.

Upon motion, &c. it was alledged that the Defendant having put in an insufficient answer to the Plaintiff's bill, and the Plaintiff having taken exceptions thereto, and the same being referred to Mr. one, &c. the said master reported the same insufficient, since which the Defendant hath put in a second answer, which the Plaintiff is advised is likewise insufficient. It is therefore ordered that it be referred to the said master to look into the said bill, answers, and exceptions, and certify whether the Defendant's second answer be sufficient or not.

Order to refer second Answer on Submission.

Forasmuch, &c. that the Plaintiff having taken exceptions to the insufficiency of the Defendant's answer, the Defendant submitted and hath
since

since put in a second answer which the Plaintiff is advised is likewise insufficient. It is thereupon ordered that it be referred to Mr. one, &c. to look into the Plaintiff's bill, the Defendant's second answer, and the Plaintiff's exceptions, and certify whether the Defendant's second answer be sufficient or not.

Order for liberty to exhibit Interrogatories as to the Credit of a Witness.

Upon motion, &c. it was alledged, that the Plaintiffs have examined A. B. as a witness for them in this cause, who is a person of ill fame, and the Defendant hath exhibited articles in the examiners office, touching the credit of the said A. B. as by certificate appears. It was therefore prayed that the Defendant may be at liberty to exhibit interrogatories for the examination of witnesses to the credit of the said A. B. which is ordered accordingly.

Order for a Serjeant at Arms.

Whereas the Defendant sits out all process of contempt to a commission of rebellion, for not answering the Plaintiff's bill, and doth so abscond himself that he cannot be found to be apprehended, as by the return of the said commission of rebellion now produced appears. It is, on the motion of , of counsel for the Plaintiff, ordered that the serjeant at arms attending this court do apprehend the Defendant, and bring him to the bar of this court, to answer his said contempt. Whereupon such further order shall be made as shall be just.

Order for Serjeant at Arms for want of Examination, unless Defendant puts it in in four Days.

Forasmuch, &c. that by the decree made on the hearing of this cause, all parties were to be examined on interrogatories before Mr. one, &c. touching the matters in question. That it appears by the said master's certificate, dated the day of , that (state certificate.) It is therefore ordered that the Defendant do in four days after personal notice hereof to his clerk in court, put in his examination to the Plaintiff's interrogatories, or in default thereof, that the serjeant at arms attending this court, do apprehend the Defendant and bring him to the bar of this court, to answer his contempt, whereupon such further order shall be made as shall be just.

Order for Serjeant at Arms for want of further Examination.

Upon motion, &c. it was alledged, that by an order of the it was referred to Mr. one, &c. to examine and certify whether the Defendant's exception put in to interrogatories exhibited by the Plaintiff pursuant to the decree in this cause was sufficient or not. That the said master by his report of the certified the Defendant's said examination to be insufficient, since which the Defendant hath not put in any further

further examination, and therefore it was prayed, that the Defendant may in four days after notice hereof to his clerk in court, put in his further examination to the said interrogatories, or in default thereof, that the serjeant at arms attending this court, may apprehend the Defendant and bring him to the bar of this court to answer his contempt, which is ordered accordingly, and thereupon such further order shall be made as shall be just.

Order to produce Books in four Days, or a Serjeant at Arms.

Upon opening, &c. it was alleged, that by the decree made on the hearing of this cause, the parties were to produce upon oath, before Mr. , one, &c. all books, papers, and writings, in their custody or power, relating to the matters in question; that it appears by the said master's certificate, dated, &c. that, &c. and therefore it was prayed that the Defendant may, in four days after personal notice hereof to his clerk in court, produce before the said master, upon oath, all books, papers, and writings, in his custody or power, pursuant to the said decree, or, in default thereof, that the serjeant at arms, &c. as before.

Order for a Serjeant at Arms on the Return of a Messenger.

Forasmuch, &c. that the Defendant, sitting an attachment in contempt for want of his answer to the Plaintiff's bill, and being arrested, and a *cepi corpus* returned thereon, the messenger of this court was, by order of , directed to take the Defendant in his custody, and bring him to the bar of this court to answer his said contempt, but the Defendant doth now so abscond and secrete himself that he cannot be found, notwithstanding diligent search and inquiry hath been made after him by the messenger, as by the messenger's return appears. And the Defendant still persisting in his contempt, and inasmuch as by the rules of this court a sequestration cannot issue on any process returned *non est inventus*, but on the return of the serjeant at arms attending this court, it is ordered that the serjeant at arms, &c.

Order for a Sequestration against a Member of Parliament.

Upon motion, &c. it was alledged, that the Defendant who is a * member of parliament, hath been served with a copy of the Plaintiff's bill, and a *subpoena* to appear to and answer the same, to which he hath appeared accordingly, but hath not put in his answer thereto, though his time for so doing is expired. It is thereupon ordered, that a commission of sequestration do issue, directed to certain commissioners to be therein named, to sequester the Defendant's personal estate, and the rents, issues, and profits of his real estate, until the Defendant shall fully answer the Plaintiff's bill and this Court make other order to the contrary, unless the Defendant having personal notice hereof, shall, within eight days after such notice, shew unto this court good cause to the contrary.

* N. B. If the Defendant be a peer, say:—"Who is a peer of this realm, hath been served with a copy of the Plaintiff's bill, the letter of the right honorable the lord high chancellor of Great Britain, and a *subpoena* to appear," &c.

Order for a Sequestration, on return of Serjeant at Arms.

Whereas the Defendant sits out all process of contempt to a serjeant at arms, for not answering the Plaintiff's bill, and doth so abscond himself, that he cannot be found to be apprehended, as by the return of the serjeant at arms now produced appears, it is, on the motion of Mr. _____ of counsel for the Plaintiff, ordered, that a commission of sequestration do issue, directed to certain commissioners, to be therein named, to sequester the Defendant's personal estate, and the rents and profits of his real estate, until the Defendant shall answer the Plaintiff's bill, clear his contempt, and this court doth make other order to the contrary.

Order for a Distringas.

Upon motion, &c. it was alledged, that the Defendant hath appeared to the Plaintiff's bill, and is in contempt for want of his answer, and therefore it was prayed that a *distringas* may issue against the Defendant, returnable immediately, to compel him to put in his answer to the Plaintiff's bill, which is ordered accordingly.

Order for an Alias Distringas.

Upon motion, &c. that, pursuant to an order, dated, &c. a *distringas* was issued against the Defendant for his contempt, in not answering the Plaintiff's bill; that the Defendant still persists in his contempt, and therefore it was prayed that an *alias distringas* may issue against the Defendant for his contempt, in not answering the Plaintiff's bill, which is ordered accordingly.

Order for Pluries Distringas.

Upon motion, &c. that, pursuant to an order, dated, &c. an *alias distringas* issued against the Defendant for want of his answer to the Plaintiff's bill, and he still persists in his contempt, and therefore it was prayed that a *pluries distringas* may issue, &c.

Order for a Distringas against a Body Corporate.

Upon motion, &c. it was alledged, that the Defendants have appeared to the Plaintiff's bill, and are in contempt for want of answer, and therefore it was prayed that a *distringas* may issue against the Defendants, returnable immediately, to compel them to put in their answer to the Plaintiff's bill, which is ordered accordingly.

Order for a Sequestration, on Distringas, et Alias, et Pluries Distringas.

Upon motion, &c. it was alledged, that a *distringas et alias, et pluries distringas* being awarded against the Defendants, for want of their answers to the Plaintiff's bill, the same are returned, and the Defendants still persist

persist in their contempt; it is thereupon ordered, that a commission of sequestration do issue, directed to certain commissioners, to be therein named, to sequester the Defendants' personal estates, and the rents and profits of their real estates, until the Defendants shall answer the Plaintiff's bill, clear their contempt, and this court make other order to the contrary.

Order for Sequestration against Defendant in Prison, for Non-payment of Money, pursuant to Decree.

Upon motion, &c. it was alledged, that an attachment having been made out against the Defendant for breach of execution of orders, and a report in not paying to the Plaintiff, directed by the sheriffs of L. It appears, by the return of the sheriffs, that the Defendant is a prisoner in the *Fleet*. It is thereupon ordered, that a commission of sequestration do issue, directed to certain commissioners to be therein named, to sequester the Defendant's personal estate, and the rents and profits of his real estate, until the Defendant shall pay the said sum of , clear his contempt, and this Court make other order to the contrary.*

* The Defendant must be a prisoner in the *Fleet* before a sequestration can issue.

Order to confirm Judgment on a Writ of Error, notwithstanding Injunction.

Upon motion, &c. it was alledged, that the Defendant, having obtained judgment at law against the Plaintiff, brought a writ of error, which is still depending, and hath exhibited his bill in this court, and obtained an injunction for stay of the Defendant's proceedings at law; it was therefore prayed that the Defendant may, notwithstanding the said injunction, proceed at law, to affirm his said judgment on the said writ of error, which is ordered accordingly.

Order for a Subpœna Scire Facias.

Upon motion, &c. it was alledged, that this cause was heard on the , and the decree then made therein hath been since signed and inrolled, since which the Plaintiff is dead, having made his will, and thereof appointed A. B. executor, who hath proved the same; and therefore it was prayed that a *subpœna* may be awarded against the said A. B., in the nature of a *subpœna scire facias*, for the said A. B., at the return thereof, to shew cause why he should not perform the said decree, as the said Plaintiff should have done, if he had been living, which is ordered accordingly.

Order to revive by Subpœna Scire Facias.

Whereas by an order of the suggesting, &c. (*state order*). Now upon motion, &c. it was alledged, that the said , having been served with the said *subpœna*, appeared thereto, and the return of the said *subpœna* being out, and the said having shewn no cause why the said proceedings should not be revived, and the said decree performed, it was therefore

fore prayed that the said suit and proceedings may stand revived, and be in the same plight and condition as they were in at the time of the death of Plaintiff, which is ordered accordingly.

Order for Senior Six Clerk to be assigned as Guardian to Infant, after brought into Court by Messenger.

Whereas, by an order, dated, &c. (*next following*). And whereas the infant was this day brought to the bar of this court, by the messenger, pursuant to the said order, it is, on the motion, &c. ordered, that the senior six clerk, not towards the cause, be guardian to the Defendant, the infant, by whom he may answer the Plaintiff's bill, and defend this suit.

Order for a Messenger to bring an Infant into Court to have a Guardian.

Upon motion, &c. it was alledged, that the Defendant is in contempt for not appearing to and answering the Plaintiff's bill, and is an infant, and therefore it was prayed that the messenger attending this court may take the said infant, and bring him into this court, to have a guardian assigned him, by whom he may answer the Plaintiff's bill, and defend this suit, which is ordered accordingly.

Order when the Court appoints the Defendant a Clerk in Court, to appear pursuant to the Act.

Forasmuch as the Defendant was this day brought to the bar of this court, by virtue of a writ of *habeas corpus*, directed to the warden of the *Fleet*, to answer his contempt, in not appearing to the Plaintiff's bill, and now refusing or neglecting to enter his appearance, or to appoint a clerk in court to act on his behalf, and Mr. , of counsel for the Plaintiff, now moving that the court would, pursuant to the late act of parliament in that case made and provided, appoint one of the sworn clerks of this court to enter an appearance for the Defendant, in order that the Plaintiff may proceed in his cause as if the Defendant had actually appeared; and the court now appointing A. B. one of the sworn clerks of this court, to enter an appearance for the Defendant to the Plaintiff's bill, it is ordered, that the Defendant, upon paying the Plaintiff his costs of this contempt, and the warden of the *Fleet* his fees, be discharged out of the custody of the warden of the *Fleet*, upon the said contempt.

Order for an Alias Habeas Corpus cum Causis, where Defendant was not brought up by Habeas Corpus.

Whereas the Defendant, being in contempt to an attachment for not appearing to and answering the Plaintiff's bill, and being a prisoner in the gaol of the county of C. an *alias habeas corpus cum causis* was awarded, directed to the sheriff of the said county, at the return thereof, to bring the Defendant to the bar of this court, to answer his said contempt; but the Defendant hath not been brought up accordingly. It is thereupon, on the motion of Mr. , of counsel for the Plaintiff, ordered, that *alias habeas*

habeas corpus cum causis do issue, directed to the said sheriff of the county of C., at the return thereof, to bring the Defendant to the bar of this court, to answer his said contempt.

Order for Defendant to appear, pursuant to the Stat. 5 Geo. II.

Forasmuch, &c. that the Plaintiff, on the day of , filed his bill in this court against the Defendant, as by the six clerks' certificate appears, and took out process of *subpoena* returnable, requiring him to appear to and answer the same, but the Defendant hath not so done; and that, upon inquiry at Defendant's usual place of abode, he is not to be found so as to be served with such process, but is gone out of the realm, or doth otherwise abscond, to avoid being served therewith, as by affidavit also appears; and the said certificate and affidavit being now read, it is ordered that the Defendant do appear to the Plaintiff's bill on or before the day of .

Clerk in Court to attend.

Upon motion, &c. it was alledged, that the Defendant, being served with process to appear to and answer the Plaintiff's bill, appeared accordingly, but stood out all process of contempt to a sequestration for want of his answer, and a commission of sequestration, under the great seal, was awarded against him, notwithstanding which the Defendant still persisting in his contempt, it was therefore prayed that, &c.

Order for Clerk in Court to attend at the Hearing, with the Record of Bill, to have it taken pro Confesso.

Upon motion, &c. it was alledged, that, by an order of , it was ordered that the Defendant should appear to the Plaintiff's bill on or before . That the said order had been inserted in the London Gazette, and published in the parish church of the Defendant, a copy thereof being posted up at the Royal Exchange, in London, pursuant to the directions of the late Act of Parliament, for making process in courts of equity effectual against persons who abscond, as, by the said order, the affidavit of and the London Gazette of now produced appears, notwithstanding which, the Defendant hath not appeared to the Plaintiff's bill. It was therefore prayed, that the Plaintiff's clerk in court may attend at the hearing of this cause, with the record of the Plaintiff's bill, in order to have the same taken *pro confesso* against the Defendant, which is ordered accordingly.

Order for a Messenger on a Capi Corpus.

Upon motion, &c. it was alledged, that the Defendant, being in contempt to an attachment, for want of his answer to the Plaintiff's bill, an attachment issued against him, directed to the sheriff of , who has returned a *capi corpus* thereon, and therefore it was prayed that the messenger attending this court may apprehend the Defendant, and bring him

him to the bar of this court, to answer his said contempt, which is ordered accordingly, and thereupon such further order shall be made as shall be just.

Order that Defendant be turned over to the Fleet, and Habeas Corpus cum Causis directed to Warden.

The Defendant, being this day brought to the bar of this court, by virtue of a writ of *habeas corpus cum causis*, directed to the sheriff of to answer his contempt, for not putting in his answer to the Plaintiff's bill, and the Defendant still persisting in his contempt, it is, on the motion of, &c. ordered, that the Defendant be turned over to the prison of the *Fleet*, and that a writ of *habeas corpus cum causis* do issue, directed to the warden of the *Fleet*, for him, at the return hereof, to bring the Defendant to the bar of this court, to answer his said contempt. Whereupon, &c.

Order for the Defendant to be turned over to the Fleet.

Whereas, by an order of, &c. it was ordered, that the messenger attending this court should apprehend the Defendant, and bring him to the bar of this court, to answer his contempt, in not answering the Plaintiff's bill, and the Defendant being this day brought to the bar of this court, pursuant to the said order, to answer his said contempt, and the Defendant now persisting therein, it is, on the motion, &c. ordered that the Defendant be turned over to the prison of the *Fleet*, and remain there till he has cleared his contempt, and this court make other order to the contrary.

Another Order for Habeas Corpus.

It was alledged that the Defendant, being on the brought to the bar of this court by the messenger attending this court, for his contempt, in not putting in his answer to the Plaintiff's bill, it was ordered that the Defendant should be turned over to the prison of the *Fleet*, there to remain until he shall have cleared his contempt, and this court have made other order to the contrary. That the Defendant, having been turned over to the prison of the *Fleet* accordingly, and still persisting in his contempt, it is therefore ordered, that a *habeas corpus cum causis* do issue, directed to the warden of the *Fleet*, at the return thereof, to bring the Defendant to the bar of this court, to answer his contempt, whereupon such further order shall be made as shall be just.

Order for Habeas Corpus, on Defendant being in Custody.

Upon motion, &c. it was alledged, that an attachment having been made out against the Defendant, for want of his answer, he hath returned a *cepi corpus* thereon. It appears, by the return of the sheriff, that the Defendant is a prisoner in his custody; it was therefore prayed that a *habeas corpus cum causis* may issue, directed, &c.

Order for Habeas Corpus, directed to the Warden of the Fleet.

Whereas the Defendant was; on brought to the bar of this court, by virtue of a writ of *habeas corpus cum causis*, directed to, &c. for his contempt, in not answering the Plaintiff's bill, and the Defendant then persisting in his contempt, it was ordered that he should be turned over to the prison of the *Fleet*, and remain there till he should clear his contempt, and this court make other order to the contrary; now, upon motion, &c. it was alledged, that the Defendant hath not cleared his contempt for want of his answer to the Plaintiff's bill, and therefore it was prayed that a writ of *habeas corpus cum causis* may issue, directed to the warden of the *Fleet*, requiring him, at the return thereof, to bring the Defendant to the bar of this court, to answer his said contempt, which is ordered accordingly, and such further order shall be made as shall be just.

Order for Defendant to be remanded to the Fleet, and for an Alias Habeas Corpus.

The Defendant, being this day brought to the bar of this court, by virtue of a writ of *habeas corpus cum causis*, directed to the warden of the *Fleet*, to answer his contempt, in not answering the Plaintiff's bill, and the Defendant now persisting in his contempt, it is, on the motion, &c. ordered that the Defendant be remanded back to the prison of the *Fleet*, and that a writ of *alias habeas corpus cum causis* do issue, directed to the warden of the *Fleet*, requiring him, at the return thereof, to bring the Defendant to the bar of this court, to answer his said contempt. Whereupon such further order shall be made as shall be just.

Order for Defendant to be remanded to the Fleet, and a Pluries Alias Habeas Corpus.

The Defendant, being this day brought to the bar of this court, by virtue of a writ of *alias habeas corpus cum causis*, directed to the warden of the *Fleet*, to answer his contempt, in not answering the Plaintiff's bill, and the Defendant now persisting in his contempt, it is, on the motion, &c. ordered that the Defendant be remanded back to the prison of the *Fleet*, and that a writ of *pluries habeas corpus cum causis* do issue, directed to the warden of the *Fleet*, requiring him, at the return thereof, to bring the Defendant to the bar of this court, to answer his said contempt. Whereupon such further order shall be made up as shall be just.

Order for Defendant to be remanded to the Fleet, and for Alias Pluries Habeas Corpus, and Clerk in Court to attend.

The Defendant, being this day brought to the bar of this court, by virtue of a writ of *pluries habeas corpus cum causis*, directed to the warden of the *Fleet*, to answer his contempt, in not answering the Plaintiff's bill, and the Defendant now persisting in his contempt, it is, on the motion, &c. ordered, that the Defendant be remanded back to the prison of the *Fleet*, and that a writ of *alias pluries habeas corpus cum causis* do issue, directed to the warden of the *Fleet*, requiring him, at the return thereof, to bring the Defendant

Defendant to the bar of this court to answer his said contempt, and that the Plaintiff's clerk in court do then attend with the record of the Plaintiff's bill, in order that the same may be taken *pro confesso* against the Defendant.

Order to speed a Cause.

Whereas Mr. _____, of counsel for the Defendant, this day moved and offered divers reasons unto the court that the Plaintiff's bill may stand dismissed out of this court, with costs, for want of prosecution, in the presence of Mr. _____, of counsel for the Plaintiff; whereupon, and upon hearing what was alledged by the counsel on both sides, it is ordered that the Plaintiff do speed his cause, (or) (*if any other terms refer to minutes.*)

Order to revive.

Upon motion, &c. (*state the proceedings as in bill of revivor*) that the said suit abating by the death of the said A. B., the Plaintiffs have since filed their bill of revivor in this court against the Defendant, to which they have appeared, * *but their time for answering being expired*, it was therefore prayed, that the said suit and proceedings may stand revived, and be in the same plight and condition as they were in at the time of the death of the said A. B., which is ordered accordingly.

* If they have answered, instead of the words in italics, say, and "put in their answers, and thereby submit to have the suit revived against them; and therefore it was prayed, &c."

Order to prove Exhibits.

Upon motion, &c. it was prayed, that the Plaintiff may be at liberty to examine one or more witnesses, *viva voce*, at the hearing of this cause, to prove, (*specify the exhibits*) saving all just exceptions, which is ordered accordingly, and hereof notice is forthwith to be given.

Order for further Time.

Upon motion, &c. it was alledged, that the Defendant, on _____ obtained an order for _____ time to put in his answer to the Plaintiff's bill; that the Defendant is preparing his answer, but cannot perfect the same by the time limited by the said order, therefore, and in regard, the said Defendant is not in contempt, it was prayed that the Defendant may have _____ further time to put in his answer to the Plaintiff's bill, which is ordered accordingly. But this is to be peremptory.

Order for further Time on third Application.

Upon motion, &c. it was alledged, that the Defendant has had two several orders for time to put in his answer to the Plaintiff's bill, the first dated for _____, and the last dated for _____, which last was to be peremptory; that the Defendant is preparing his answer, but cannot

not perfect the same by the time limited by the said last order, therefore, and in regard, the Defendant is not in contempt, it was prayed, that the Defendant may have further time to put in his answer to the Plaintiff's bill, whereupon it is ordered, that the Defendant have further time to put in his answer to the Plaintiff's bill, the Defendant, by his counsel, consenting to ask no further time.

Order to refer it to the Master to see who set Counsel's Name to Bill.

Upon motion, &c. it was alledged, that the Plaintiff having exhibited his bill in this court against the Defendant, the Defendant, upon looking into the same, is advised the name of _____, set thereto as the counsel who signed the bill, is not of his hand-writing, or put thereto with his privy. It is thereupon ordered, that it be referred to Mr. _____, one, &c. to look into the Plaintiff's bill, and examine and certify whether the name of _____, set thereto, is of the hand-writing of the said _____, or was set thereto with his privy.

Order for a Guardian to an Insane Person.

Upon motion, &c. it was alledged, that the Defendant is a person of insane mind, and not capable of understanding the Plaintiff's bill, or putting in answer thereto, as by affidavit appears, (*words from affidavit*); and therefore it was prayed, that the Defendant may have a commission to assign him a guardian, by whom he may answer the Plaintiff's bill, and defend this suit, and to take his answer by such guardian, which, upon reading the said affidavit, is ordered accordingly, thereof notice is to be given forthwith.

Order to tax a Solicitor's Bill.

Upon opening, &c. (*state the case*) wherefore it is ordered that it be referred to Mr. _____, one, &c. to tax the said A. B.'s bill of fees and disbursements; and the said A. B. is to be examined on interrogatories, and to produce, on oath, before the said master, all books, papers, and writings, in his custody or power, relating thereto, as the said master shall direct. And it is ordered, that the said _____ do pay the said A. B. what, if any thing shall appear to be due to him in such taxation; and thereupon, or in case it shall appear that the said A. B. is overpaid, the said A. B. is to deliver to the said _____, upon oath, all books, papers, and writings, which he hath in his custody or power belonging to the said _____; and in case it shall appear that the said A. B. is overpaid, it is ordered, that the said A. B. do refund to the said _____ what the said master shall certify to be so overpaid.

N. B. There must be a submission of the party applying for this order to pay what shall be found due on the taxation.

Order to make Decree absolute.

Whereas by the decree made in this cause, bearing date the _____, it was ordered and decreed (*ordering part*). Now, upon motion, &c. it was alledged, that the Defendant has been duly served with a subpoena to

to shew cause against the said decree, as by affidavit appears, and that no cause is shewn to the contrary thereof, as by the register's certificate also appears; and therefore it was prayed, that the said decree may be made absolute, which is ordered accordingly.

Order for an Infant to convey.

Upon opening, &c. (*state order of reference*). In pursuance whereof the said master made his report, dated, &c. and thereby certified (*report in past tense*); and thereupon it was prayed that the said , infant, may, pursuant to the said act of parliament, convey the said premises, according to the said report, which, upon reading the said report, is ordered accordingly.

Order to appoint a Receiver as to several Kinds of Estates, and of an Estate in Ireland.

Upon opening, &c. (*state case*) it is ordered that it be referred to Mr. &c. to appoint a proper person to be receiver of the rents and profits of the real estate of , and to allow him a reasonable salary for his care and pains therein, such person so to be appointed receiver, first giving security to be allowed of by the said master, and to be taken before a master extraordinary in the country, if there shall be occasion, duly and annually to account for and pay what he shall so receive, as this court shall direct, and the tenants of the said estate are to attorn and pay their rents in arrear, and growing rents, to such receiver, who is to be at liberty to let and set the said estates, from time to time, with the approbation of the said master, as there shall be occasion.

N. B. If the estate be in Ireland, say, "and let the person who shall be appointed receiver of the rents and profits of the said estate in Ireland, give security, to be approved of by the said master; but the recognizance is to be acknowledged by the person, so to be appointed receiver, before a master of the Court of Chancery in Ireland, and to be duly entered and enrolled according to the course of that court; and the taking and enrolling thereof is to be duly certified to this court by one of the masters of that court."

If there be copyhold estates, and courts to be held, add, at the end, the following words: "and let such courts as have been usually held, and are proper to be held, for the copyhold estate, be, from time to time, held by the receiver in the name or names of the person or persons, in whom the legal estate is, and let the receiver bring into this court his account of all such fines and other profits as shall be taken by him at such courts."

If a manor, say, before the above, "and any other person or persons, in receipt of any part of the profits of the said manor, are also to pay the arrears and growing payments thereof to such receiver."

Again, if a manor; "and let such receiver let or set such part or parts of the land and premises, and the quit rents, and other material rights and profits of the said manor as have been usually let or set by copy of court-roll, or otherwise, according to the custom of the said manor, with the approbation of the master, as there shall be occasion."

Order

Order to tax Costs, no Relief being prayed by the Bill.

Upon opening, &c. it was ordered that the Plaintiffs having exhibited their bill in this court against the Defendant for a discovery of the several matters therein mentioned, and for the examination of witnesses, in order to perpetuate their testimony thereto; and the Defendant having put in his answer to the said bill, the Plaintiffs replied thereto, and the cause being at issue, the Plaintiffs sued out a commission, and examined their witnesses thereon; but the Defendant hath not examined any witnesses, and the Plaintiffs, by their said bill, praying no relief, and not having proceeded in their cause since the execution of the said commission, it was therefore prayed, that the Plaintiffs may pay unto the Defendants his costs of this suit, which, upon hearing, &c. is ordered accordingly, and it is hereby referred to Mr. &c. to tax the said costs.

N. B. Upon the answer coming in, if the Plaintiff doth not except within the time limited, the Defendant moves of course for this order.

Order to make an Agreement an Order of Court.

Whereas by articles of agreement, bearing date, &c. it is recited and agreed as follows, that is to say, (*agreement verbatim*). Now, upon motion, &c. and upon producing one part of the said articles, under the respective hands and seals of , and praying that the same may be made an order of this court, it is ordered, that the said agreement be made an order of this court, to be observed and performed by the parties thereto, according to the tenor and true meaning thereof, Mr. , of counsel for , consenting thereto.

Order to examine Fême Coverts separately.

Upon motion, &c. (*state case*) it is ordered, that the said , the wife of , and , the wife of , do severally attend justices, * &c. or any of them, be solely and secretly examined by them separate and apart from their said husbands, how, and in what manner, and to what uses, they are severally willing and desirous may be paid and applied; and the said , or any of them, who shall take such examinations, are to take the same in writing signed by the said respectively, and to certify the same, in writing, under their hands, and the signing of the said , and such certificates, are to be verified by affidavit; and, upon the return of such certificates, such further order shall be made as shall be just.

* If they reside in America, to attend counsellors and attornies, of , and aldermen of the same, and such certificate to be verified by the seal of the province annexed thereto.

Order to dissolve an Injunction, unless Cause revived.

Upon motion, &c. it was alledged, that the Plaintiff is lately dead, having made his will, and appointed executors thereof, who proved

proved the same, but have not thought fit to revive this suit, and the said Plaintiff having, in his life-time, obtained an injunction to stay the Defendant's proceedings at law for the matters here in question. It was therefore prayed, that the said , the executors of the said Plaintiff, may, in after notice hereof, exhibit a bill of revivor against the Defendant, in order to revive this suit, or in default thereof, that the said injunction may be dissolved, which is ordered accordingly.

Order to answer by Committee.

Upon motion it was alledged, that the Plaintiff hath exhibited his bill in this court against the Defendant, therefore, and in regard a commission of lunacy hath issued against the Defendant, and he hath been found a lunatic thereon, and hath been appointed his committee, it was prayed, that the Defendant may be at liberty to put in his answer to the Plaintiff's bill by the said , his committee, and may have a commission, &c. which is ordered accordingly.

Order for Sheriff to make return on Attachment.

Upon motion, &c. it was alledged, that an attachment having issued against the Defendant for want of his answer to the Plaintiff's bill, returnable the day of , the sheriff of , to whom the said attachment was directed, refuses to return the same. It is thereupon ordered, that the said sheriff of do forthwith make his return on the said attachment.

Order to vacate Recognizance of a Receiver.

Upon opening, &c. it was alledged, that (order to appoint a receiver) that, pursuant to the said order, the said master appointed receiver of who thereupon, together with and , as his sureties, by the names and additions of , (take the exact words from recognizance) did, on , enter into a recognizance unto in the penalty of , with condition, &c. And thereupon it was prayed, that the said recognizance, so entered into by the said , together with the said and , his sureties as aforesaid, may be vacated, which is ordered accordingly, and for that purpose the proper officer is to attend with the record of the said recognizance.

Order for a Writ of Supplicavit.

Upon opening, &c. and upon producing certain articles of misdemeanor exhibited against , and attested by , and hearing the same read, it is ordered that a special writ of *supplicavit* do issue according to the statute in that case made and provided, and the security to be taken thereon, as to the said , is to be in the sum of £ , and he is to find sureties in the sum of £ .

Order for a Commission to set out and distinguish Copyhold from Freehold Lands.

Let a commission issue, directed to certain commissioners to be therein named, to set out, distinguish, and divide the copyhold lands comprised in the deed of, &c. or any of them, from the freehold lands, and to ascertain the boundaries thereof; and the commissioners are to set out, distinguish, divide, and ascertain the same accordingly.

And after the lands shall be so set out respectively, the Defendant is to deliver possession thereof to the Plaintiff, and the Plaintiff and his heirs are to hold and enjoy the same against Defendant and his heirs, or any person or persons claiming under him, as parcel of the manor of, &c.

And let all parties produce before the commissioners all court-rolls, court-books, copies of court-rolls, deeds, and other writings, relating to the lands in question, in their custody or power, upon oath, to be inspected by the commissioners, or by the parties, or their agents, as the commissioners shall think fit, and the parties are to be at liberty, at their own expense, to take copies thereof.

Order to see which Bill is most for Infant's Benefit.

Upon motion, &c. it was alledged, that bills have been exhibited in this court in the name of the Plaintiff, the infant, one by , as his next friend, and the other by , as his next friend, touching one and the same matter; and therefore it was prayed that, &c.

Order to deliver Long Annuity Orders out of the Bank.

Upon opening, &c. it is ordered, that the long annuity orders following, that is to say, No. , dated, &c. for and No. , dated, &c. for , placed to the credit of this cause, be, together with the tollies belonging thereto, delivered out of the bank with the privy of the Accountant-General of this Court, and assigned by him to

Order for arguing Exceptions.

The matter of the exceptions taken by the report, made in this cause by Mr. , one, &c. dated, &c. coming on, &c. to be argued before , in the presence of counsel learned, for , upon opening and debate of the Defendant's first exception, and hearing read, and what was alledged, &c. held the said first exception to be insufficient, and doth therefore order that the same be over-ruled, and the said second exception being for that, &c. upon debate, &c. doth order, on the said second exception, that, &c. and that the sum of £ , deposited by , with the register, on the filing of the said exceptions, be paid to (or be divided between).

Order to take Issues pro Confesso.

Upon opening, &c. unless the Plaintiffs in the issues do proceed to the trial thereof some time in , it is ordered that the said issues be taken *pro confesso* as if the same had been tried and found against them, without further motion.

Order on arguing Plea and Demurrer, where over-ruled—Variations where they are allowed, and when ordered to stand for an Answer.

The matter of the plea and demurrer put in by the Defendant, to the Plaintiff's bill, coming on this present day to be argued before , in the presence of counsel learned, for ; and the said plea and demurrer being opened*, upon debate of the matter and hearing, &c. held the said plea and demurrer to be insufficient, and doth therefore order that the same be over-ruled.

* If they are allowed, it will run thus:—"and the same being as to "so much of the Plaintiff's bill, &c. the Defendant, by the said demurrer, insisting, &c. upon debate, &c. held the Defendant's said plea and demurrer to be good and sufficient, and therefore doth "order that the same do stand and be allowed, and that the sum "of £ be deposited by the Defendant, with the register, on setting "down the said plea and demurrer to be argued, be paid back to the "Defendant."

And thus, if they stand for an answer:—"the matter, &c. and the "said plea and demurrer being opened upon debate, &c. doth order, "that the said plea do stand for an answer, with liberty for the Plaintiff "to except thereto, and the benefit thereof is hereby saved unto the "Defendant until the hearing of this cause."

Order for Sale of Annuities, and Payment of Cash out of Bank.

Upon opening, &c. it is ordered, that the annuities standing in the name of the Accountant-General of this court, in trust in this cause, be sold with the privy of the said Accountant-general, and one of the cashiers of the Bank is to have notice to attend such sale, and receive the money arising thereby, who, on receipt thereof, is to pay the same into the Bank, to be placed to the credit of this cause; and when the said money shall be so paid into the Bank, it is ordered, that the same be paid to , and for that purpose the said Accountant-General is to draw on the Bank, according to the form prescribed by act of parliament for relief of the suitors of this court, and the general rules and orders of this court in that case made and provided.

Order for Ne Exeat Regno.

Upon motion, &c. it was alledged, that it appears by the affidavit of (state affidavit) to be relieved, wherein the Plaintiff hath filed his bill in this court against the Defendant, as by the six clerks' certificate appears. It was therefore prayed, that a writ of *ne exeat regno* may be awarded against the Defendant until he shall fully answer the Plaintiff's bill, and this court make other order to the contrary, which,

which, upon reading the said affidavit, is ordered accordingly; and the said writ is to be marked in the sum of £ , in words at length, and not in figures.

Order to disallow Cause, and dissolve Injunction.

Whereas by an order of the , for the reasons therein contained, it was ordered, that, &c. Now, upon motion, &c. who came to shew cause against the said order, and moved and offered divers reasons for discharge thereof, and for continuance of the said injunction, in the presence of Mr. , of counsel for the Defendant; whereupon, and upon hearing of what was alledged by the counsel on both sides, his Lordship doth disallow the cause now shewn, and doth therefore order that the said injunction do stand dissolved.

Order to adjourn Petition.

Counsel for this day attending touching the matter of a petition, preferred by the said unto , on , his Lordship doth order, that the matter of the said petition do stand adjourned to the next day of petitions.

Order to answer Vinculis, fourth Answer insufficient.

Forasmuch, &c. that the Defendant's fourth answer to the Plaintiff's bill hath been reported insufficient by Mr. , one, &c. as by the said master's report, dated, &c. now produced and read, appears. It is thereupon ordered, that the Defendant do stand committed to the prison of the Fleet until he shall fully answer the Plaintiff's bill, clear his contempt, and this court make other order to the contrary.

Order to add an Interrogatory to those exhibited.

Upon motion, &c. that this cause being at issue, a commission issued for the examination of witnesses, returnable, &c. that the Plaintiff is advised it will be material for him to add an interrogatory to those already exhibited; and therefore it was prayed, that the Plaintiff may be at liberty to add an interrogatory to those already exhibited on the said commission, which is ordered accordingly.

Order to answer Exceptions to a Decree of charitable Uses.

Upon motion, &c. of counsel for the exceptions, it was alledged, that the exceptants, on , filed exceptions to a decree of charitable uses, made by commissioners on behalf of the poor of , since which the respondent hath not put in any answer thereto, as by certificate appears. It is thereupon ordered, that the respondent do answer the said exceptions in after personal notice thereof, or in default thereof, that the said exceptions be taken *pro confesso*, and the said decree reversed.

Order to add an Interrogatory as to Exhibits, Publication having passed.

Upon motion, &c. that the Plaintiff is advised to prove the following exhibits, that is to say, &c.; but publication having passed he cannot do it without the leave of the court. It was therefore prayed, that the Plaintiff may be at liberty to exhibit an interrogatory in the examiner's office, and to examine witnesses thereon to prove the said exhibits, notwithstanding publication is passed, which is ordered accordingly.

Order to make Award an Order of Court.

Upon motion, &c. and praying the writing of award hereafter mentioned, bearing date, &c. under the respective hands and seals of , and by them sealed and delivered, being first duly stamped in the presence of , may be made an award of this court; and the said writing of award being now produced, the same appears to be as follows, that is to say—To all people, &c. Whereupon, and upon hearing, &c. and an affidavit made by the said read, his Lordship doth order, &c.

Order to amend Bill by making some of the Plaintiffs Defendants.

Upon motion, &c. it was alledged, that the present Plaintiffs, together with , having exhibited their bill in this court against the Defendants, the Plaintiffs are advised to strike out the names of the said from being Complainants, and to name the said Complainants Defendants to the said bill; and therefore it was prayed, that the Plaintiffs may be at liberty to amend their bill, without costs, by striking out the said from being Complainants, and by making them Defendants; which is ordered accordingly.

Order for Time for Husband and Wife to answer separate, although Defendants do not live separate.

Upon motion, &c. of counsel for the Defendant, (the wife) it was alledged, that the Defendant (the husband) is made a Defendant to the Plaintiff's bill, in right of the said Defendant (his wife); that the said Defendant (the wife) is advised to put in her answer separate from the said Defendant (her husband); therefore, and in regard, the said Defendant (the wife) hath not obtained any order for time, and is not in contempt, it was prayed, that she may be at liberty to put in her answer to the Plaintiff's bill separate from her said husband, and may have weeks time for that purpose, and which is ordered accordingly.

Order for arguing Demurrer in Petty Bag.

The matter of the demurrer put in for the Plaintiff to the Defendant's plea to the Plaintiff's declaration in the petty bag coming on this present day to be argued before , in the presence of counsel learned on both sides. Upon opening and debate of the matter, and hearing,

hearing, &c. his Lordship doth order, that the said Plaintiff have judgment, unless the Defendant shall on shew unto this court good cause to the contrary.

Demurrer to adjourn.

The matter of the demurrer put in by the Defendant to the Plaintiff's bill, standing this present day in the paper of pleas and demurrers to be argued before , in the presence of counsel learned on both sides; and (*state reason*) his Lordship doth order, that the said demurrer do stand adjourned over to the next day of pleas and demurrers.

Order to confirm Proceedings under Act 5th George III.

Upon opening, &c. that the Plaintiff having exhibited his bill in this Court against Defendant, and sued out a subpoena to compel him to appear and answer the same, and the Defendant absconding to avoid being served with such subpoena, the Plaintiff proceeded against him pursuant to the act of parliament made in the 5th George III. intituled "An Act for making Process in Courts of Equity effectual against those who abscond and cannot be found to be served therewith, or who refuse to appear thereon," obtained a decree, whereby it was ordered and decreed, &c.; that, pursuant to the said decree, the master made his report, bearing date, &c. which stands absolutely confirmed by order of , and thereby certified that, &c.; that by an order, dated, &c. (*order of foreclosure*) that the Plaintiff having found the Defendant, did, on , cause him to be served with the said decree, report, and order for confirming the said report and order (*of foreclosure*), as by affidavit appears, notwithstanding which the Defendant hath not appeared to the Plaintiff's bill, as by the six clerks' certificate appears, and therefore it was prayed, that the said decree, report, and orders of may, pursuant to the said act of parliament, stand absolutely confirmed against the Defendant, his executors and administrators, and all persons claiming or to claim by, from, or under him, them, or any of them, by virtue of any act done, or to be done, subsequent to the commencement of this suit, which, upon hearing of read, is ordered accordingly.

Order for a Certiorari to remove Cause out of the Mayor's Court.

Upon motion, &c. that, some time since, the Defendant exhibited his bill in the mayor's court of L. against the Plaintiff, to which an answer was put in, and the cause was afterwards heard, since which the Plaintiff hath brought his bill in this court, as by the six clerks' certificate appears, and the Plaintiff hath given security to prove the suggestions of his bill within years, according to the course of the courts, as by the said certificate also appears. It was therefore prayed, that a writ of *certiorari* may issue to remove the said proceedings out of the said mayor's court into this court, which is ordered accordingly.

Order to dissolve Injunction on Demurrer being allowed.

Whereas the Plaintiff obtained an injunction for stay of Defendant's proceedings at law till answer, and other order to the contrary. Now, upon, &c. that the defendant having put in a demurrer to the Plaintiff's whole bill, the said demurrer, on arguing, was allowed, and therefore it was prayed that the said injunction may be absolutely dissolved, which is ordered accordingly.

Order for Capias in Withernam.

Forasmuch, &c. that pursuant to an order of a writ *de homine replegiando*, issued on the behalf of the said A. directed to the sheriff of , to replevy B., the wife of the said A., whom C., in the said order named, hath taken and detained, and that the said sheriff hath returned upon such writ, that the said B. was essoined by the said C. to some place to him unknown, so that he could not replevy her. It is therefore ordered, that the said A. be at liberty to sue out a *capias in withernam* against said C.

N. B. If the writ *de homine replegiando* be returned *non est inventus*, then a *capias in withernam* goes against his goods.

Order for Commission on Master's Certificate.

Upon motion, &c. that by the decree made on the hearing of this cause several accounts were directed to be taken by Mr. , for the better taking of which accounts the parties were to be examined on interrogatories, and to produce on oath, before the said master, all books, papers, and writings in their custody or power relating thereto, as the master should direct. In pursuance whereof the exhibited interrogatories before the said master, for the examination of, that it appears by the said master's certificate, bearing date, &c. that it will be necessary to have a commission for that purpose, and therefore it was prayed that, &c. which, upon reading, &c. is ordered accordingly.

Exceptions and further Directions opened separately.

This cause coming on, &c. and the pleadings in the cause being then opened upon debate, &c. his Lordship did order and decree that, &c. that in pursuance of the said decree, the said master made his report, bearing date, &c. and thereby certified, &c. To which said report the took several exceptions, and the matter of the said exceptions coming on this present day to be argued before , and the said exceptions being opened, and the first being for that, &c. (and so through all the exceptions), and this cause also coming on to be heard for further directions, &c. before, &c. upon opening and debate, &c.

Order for Time to answer Cross Bill after Defendant has answered Original Bill.

Upon motion, &c. *per querela*, and Defendants in cross cause, it was ordered that the said Plaintiffs having exhibited their bill in the original cause against the Defendants in that cause, the said Defendants appeared thereto, and obtained an order, dated _____, for time to answer, and have exhibited their cross bill against the Plaintiffs in the original cause, to which they have appeared. It was therefore prayed that the Defendants in the cross cause may have a fortnight's time to put in their answer to the cross bill, after the Defendants in the cross cause shall have put in their answer to the original bill, which is ordered accordingly.

Order for Habeas Corpus, Defendant not being able to give Security on Ne exeat regno.

Upon motion, &c. it was alledged that the Defendant hath been arrested by the sheriff of _____ upon a writ of *ne exeat regno*, whereon security is to be taken in the sum of £ _____ but the Defendant is not able to give such security, and his books and papers are in _____, and he cannot put in his answer without inspecting the same, and therefore it was prayed that a *habeas corpus* may be awarded, directed to the sheriff of _____, for him, at the return thereof, to bring the Defendant to the bar of this court, in order to his being turned over to the prison of the *Fleet*, which is ordered accordingly.

Habeas Corpus to Gaoler of County Palatine of D.

Upon motion, &c. it was alledged that an attachment having issued against the Defendant for non-payment of the sum of £ _____ to the Plaintiff pursuant to an order, dated _____, it appears by the certificate of _____ gaoler or keeper of the gaol in the county palatine of D. that the Defendant is detained in the said gaol. Whereupon, and upon hearing an affidavit of _____ read, it is ordered that a *habeas corpus, cum causis* do issue, directed to the gaoler or keeper of the said gaol, at the return thereof, to bring the Defendant to the bar of this court to answer his contempt, and thereupon such further order shall be made as shall be just.

Habeas Corpus to County Palatine of L.

Upon motion, &c. that the Defendant being in contempt to an attachment with proclamation for want of his answer to the Plaintiff's bill, directed to the chancellor of the county palatine of L., or his deputy, it appears by the return thereof, that the said Defendant hath been taken thereon, and the said Defendant still persisting in his contempt, it is thereupon ordered, that a *habeas corpus cum causis* do issue, directed to the chancellor of the said county palatine, or his deputy, commanding him that he by writ of *habeas corpus cum causis* under

under the seal of the said county palatine, do command the sheriff of the said county, at the return thereof, to bring the said Defendant to the bar of this court, to answer his said contempt, whereon such further order shall be made as shall be just.

It is ordered, that the chancellor of the county palatine of L. do, within six days next after notice of this rule to be given to him, or his deputy there, peremptory to return the writ of _____ issued between the parties.

It is ordered, that the sheriff of the county palatine of L. do, within six days after notice of this rule be given to his under-sheriff, peremptory return the mandate, directed to him by the chancellor of the county palatine of L. upon the writ of _____ issued between the parties.

Habeas Corpus on Application of Sheriff, Plaintiff not applying to bring Defendant up.

Upon motion, &c. that it appears by the certificate of the said sheriff, that the Defendant was, on _____ taken into the custody of the said sheriff, and is now detained in the prison of the said town and county, by virtue of an attachment issued against the Defendant for breach of a writ of execution of an order, dated, &c. for payment of the sum of £_____, and for no other cause whatsoever. And in default the Plaintiffs have not yet thought fit to call on the said sheriff for the return of the said writ of attachment. It was therefore prayed that a *habeas corpus cum causis* may issue, directed to the said sheriff, for him, at the return thereof, to bring the Defendant to the bar of this court to answer his said contempt, which, upon hearing an affidavit of _____ read, and the said certificate read, is ordered accordingly, and thereupon such further order shall be made as shall be just.

Order for Injunction against Member of Parliament.

Forasmuch, &c. that the Defendant, who is a member of parliament, having been served with a copy of the Plaintiff's bill, and a subpoena to appear to and answer the same, hath appeared accordingly, but hath not yet put in his answer thereto, though his time for so doing is expired, and yet in the mean time prosecutes the Plaintiff at law for the matters in the bill complained of, and in regard the Plaintiff would have been entitled to sue out process of contempt against the Defendant for want of his answer, in case he had not had privilege of parliament. It is thereupon ordered that, &c.

Injunction to stay Proceedings in Execution at Chester.

Upon motion, &c. that by an order, (order of reference,) that in pursuance of the said order, the said master made his report, &c. (report); and therefore it was prayed that an injunction may be awarded for stay of the Defendant's proceedings in the said court of exchequer at Chester, touching any of the matters here in question, until the further order of this court, which, upon reading an affidavit of this motion, is ordered accordingly.

Injunction

Injunction to deliver Possession and Deeds to the Plaintiff.

Upon motion, &c. that by the decree made on the hearing of this cause, it was, among other things, ordered and decreed that the Defendant should pay unto the Plaintiff the sum of £ and interest, together with his costs of this suit, to be taxed by the master, at such time and place as the master should direct, and in default thereof, that possession of the estate in question should be delivered to the Plaintiff to hold the same, until he was satisfied what should be reported due to him. That the said master, by his report, dated, &c. which stands absolutely confirmed, certified that, &c. that the said Defendant hath been served with a writ of execution of the said decree and report, and the Plaintiff attended on to receive the said sum of £ reported due to him as aforesaid; but the same was not then, nor hath the same been since paid, as by affidavit appears, and the Defendant is in contempt to an attachment for non-payment of the said sum of £ , and therefore it was prayed that an injunction may be awarded to put the Plaintiff into possession of the said estate, pursuant to the said decree, which is ordered accordingly.

Injunction to deliver Possession to Plaintiff, Defendant refusing.

Upon motion, &c. it was alledged, that by the order made on the hearing of this cause, it was ordered that the Defendant should deliver possession of the estate in question, and all deeds and writings in his custody or power relating thereto, to the Plaintiff. That the Defendant, who is in possession of the said estate, was served with a writ of execution of the said order, and the Plaintiff required him to deliver possession, which he refused to do, as by the affidavit appears; and an attachment having been made out against the said Defendant, it was therefore prayed that an injunction may be awarded against the said Defendant to enjoin him to deliver possession of the said estate, to the said Plaintiff, pursuant to the said decree, which, upon reading the affidavit, is ordered accordingly.

Order to make Bonds of Submission Order of Court.

Whereas the Plaintiff and Defendant have severally entered into bonds, &c. (recite bonds), which said bonds were duly executed as by the affidavit of a subscribing witness thereto, now produced and read, appears. It is, on the motion of , ordered that the said bonds of submission, entered into as aforesaid, be made an order of this court, and that the said parties do submit to, and be finally concluded by the award which the said arbitrators shall make, pursuant to the said submission, according to the statute in that case made and provided.

Order that Proceedings in Petty Bag may be made a Concilium.

Upon motion, &c. that the Defendant having put in a plea to Plaintiff's declaration in the Petty Bag, the Plaintiff hath demurred to such plea.

plea. It was therefore prayed that the said proceedings may be made a *concilium*, and may stand in the paper of , to be argued before on , which is ordered accordingly.

Order as to the Delivery of Deeds, and entering into Covenants for their Production.

Let such of the title deeds and writings as relate solely to the estate comprized in lot , and also such as relate to the same estate jointly with other estates of less value, be delivered to , he submitting to produce the last-mentioned deeds and writings on necessary occasions, and to enter into covenants for that purpose, and to give attested copies thereof if required, at the expense of the party requiring the same; and as to such of the title deeds and writings as relate to the estate comprized in the said lot jointly with other estates of greater value, he is to have attested copies, if required, at the expense of the estates, and the person entitled to such estates are to execute to him the like deed, or deeds of covenant to produce the same on necessary occasions; and in case any dispute shall arise between the parties, touching the copies of any particular deeds or writings, relating to the title, the master is to settle the same.

Order that Defendant may answer in Foreign Language, and for Notary Public to translate the same. Notice to be given to Plaintiff's Clerk in Court.

Upon motion, &c. that Plaintiff having exhibited his bill into this court against the Defendant who lives at , in the kingdom of , he hath appeared thereto, and hath obtained an order for a commission for taking his answer at , and such commission hath issued accordingly. That the Defendant doth not understand the English language, and therefore it was prayed that the Defendant may be at liberty to swear his answer in the language, and that a notary public may be appointed to translate the same into the English language, and that he may be sworn to the true translation thereof, and that such translation may be filed with the Defendant's other answer, which is ordered accordingly; but notice hereof is first to be given to the Plaintiff's clerk in court.

Order for Order of House of Lords to be made Order of Court.

Whereas by an order of made by the Right Hon. the Lords Spiritual and Temporal in Parliament assembled, after hearing counsel on the day of upon the petition and appeal of complaining of an order of this court, dated it was ordered and adjudged by the said Lords Spiritual and Temporal, that (*state order of House of Lords*) now, upon motion, &c. and upon producing the said order of the House of Lords, it was prayed that the said order of the House of Lords may be made an order of this court, which, upon hearing of Mr. of counsel for is ordered accordingly; and it is hereby referred to Mr. one of the masters of this court, to settle the issues in case the parties differ about the same.

Order to produce a Person, pretended to be alive, at Church Porch, pursuant to the Act, in Cases of reversionary Estates.

Forasmuch, &c. that the said is entitled to the immediate reversion of after the death of who as the said hath good reason to believe is dead, and that his death is concealed by as by affidavit appears. It is thereupon ordered that the said having notice hereof, do produce the said for whose life the said estate is held,* to the said at the church-door of in the county of on the day of betwixt the hours of and of the clock, in the forenoon of the same day, according to the statute in that case made and provided, made in the sixth of Queen Anne, intituled, "An act for the more effectual discovery of the deaths of persons pretended to be alive, to the prejudice of those who claim estates after their deaths." †

* If there are more lives than one, say, "or such of them as are now living."

† It is necessary that three orders should be served:—the first as above; the second to produce the person to commissioners to be named in the order; the third declares he ought to be deemed dead.

Order to see if Answer taken regularly or not.

Forasmuch, &c. that the Defendant having obtained a commission for taking his answer to the Plaintiff's bill, hath returned the same without giving notice to the Plaintiff of the time of taking such answer, which, as the Plaintiff is advised, is irregular. It is thereupon ordered, that it be referred to Mr. &c. to examine and certify whether the said Defendant's said answer be taken regularly or not.

Refer Interrogatories, being leading.

Forasmuch, &c. that Plaintiff having exhibited interrogatories for the examination of witnesses in this cause, the Defendant is advised that such interrogatories are leading. It is thereupon ordered that it be referred to Mr. one, &c. to look into the said interrogatories, and certify whether the same be leading or not.

Refer to see if Plaintiff proved Suggestions in Certiorari Bill.

Upon motion, &c. that Plaintiff having brought his *certiorari* bill to remove a cause, wherein the now Defendant was Plaintiff, and the now Plaintiff was Defendant, from the Lord Mayor's Court, and Plaintiff having entered into a bond with security, according to the course of the court, to prove the suggestions of the said bill, wherein the same, limited for that purpose, obtained an order, dated to enlarge the time for a fortnight, which expires this day. That Plaintiff hath exhibited interrogatories, and examined witnesses, to prove the suggestions in his said bill, according to the said bond, and that the said depositions of Plaintiff's witnesses be published forthwith, and that both
sides

sides be at liberty to take copies thereof, and that Plaintiff have days further time to procure the master's report.

Special Election.

Upon opening, &c. that the Defendant on obtained an order, that, &c. that the Plaintiff is advised to make his election, to proceed at law for and in this court for and therefore it was prayed, that the Plaintiff may now be at liberty to make his special election, notwithstanding the said order of . Whereupon, and upon hearing, &c. it is ordered, that the Plaintiff do according to his election now made in court, &c.

Order for Serjeant at Arms, on Appearance entered, and Answer reported insufficient.

Upon motion, &c. that by an order, dated, &c. it was ordered (*order to serjeant at arms*) that Defendant accordingly entered such his appearance with the register, and put in his answer, which hath been reported insufficient by Mr. &c. as by the said master's report, dated, &c. appears. That on, &c. the Defendant was served with a subpoena to make a better answer, notwithstanding which he hath not put in a further answer, though his time for so doing is expired. It was therefore prayed that the serjeant at arms attending this court may apprehend the Defendant, and bring him to the bar of this court to answer his contempt, which is ordered accordingly, and thereupon such further order shall be made as shall be just.

Sequestration, where Defendant appeared without being served.

Upon motion, &c. that Defendant, who is a member of parliament hath appeared to the Plaintiff's bill, but hath not put in his answer thereto, though his time for so doing is expired. It is thereupon ordered, &c. (words of seq. nisi.)

Order for Service of Subpœna on Defendant's Clerk in Court may be good Service, Defendant being Abroad.

Upon motion, &c. that Defendant having exhibited his original bill in this court against Plaintiff in this cause, Plaintiff appeared thereto, and exhibited his cross-bill against the said Defendant, and hath taken out process of subpoena to compel him to appear to and answer the same. That the said Defendant lives in parts beyond the seas, as by affidavit appears; and therefore it was prayed, that service of said subpoena on the said Defendant's clerk in court may be deemed good service on the said Defendant, which, upon reading the said affidavit, is ordered accordingly.

Sequestration Nisi against Member of Parliament for Non-payment of Money.

Upon motion, &c. that who is a member of parliament hath been served with a subpoena for payment of the sum of costs taxed, pursuant to the decree in this cause; but the said refuses to pay the said sum of £ as by the affidavit of now produced and read appears. It is thereupon ordered that a commission of sequestration do issue, &c. (*take usual words*) until the said shall pay the said sum of £ and this court make other order to the contrary, unless, &c. (*usual words*).

Order for a Notary Public to translate Proceedings and Exhibits.

Upon motion, &c. that the Plaintiff having examined several witnesses in in this cause, several of the Plaintiff's exhibits and proceedings are written in the language; and therefore it was prayed, that such of the said proceedings and exhibits as are wrote in the language may be delivered to a notary public in order to translate the said several proceedings and exhibits into the English language, that the said may be sworn to the true translation thereof, and that such translation may be read at the hearing of this cause, which is ordered accordingly, saving all just exceptions.

Witness to attend to be examined, or stand committed.

Upon motion, &c. that is a material witness for the Plaintiff in this cause, and hath been served with a subpoena, returnable immediately, to attend and be examined as a witness for the Plaintiff in this cause, as by affidavit now produced and read appears, notwithstanding which the said hath not attended to be sworn and examined, as by the examiner's certificate now also produced and read appears. It is thereupon ordered that the said do, in four days after personal notice hereof, attend and be sworn, and examined as a witness for the Plaintiff in this cause, or in default thereof, that the said do stand committed to the prison of the Fleet.

Order for Costs of Reference to be taxed.

Upon motion, &c. that by an order bearing date, &c. it was ordered that, &c. in pursuance whereof the said master by his report, bearing date, &c. certified, &c. It is thereupon ordered that it be referred back to the said master to tax the Plaintiff his costs, occasioned by the said reference, which is ordered accordingly.

Appeal, if from the whole Decree, in the Form following.

This cause coming, &c. and the pleadings in the cause being then ordered, and the scope of the bill being, &c. the Plaintiff by his bill for that purpose charging, &c. and the Defendant by his answer setting forth,

forth, &c. upon debate of the matter, &c. his Honor did order and decree, &c. with which said decree the conceiving himself aggrieved, did, on prefer his petition of appeal unto setting forth, &c. and therefore praying, &c. Whereupon it was ordered, &c. that the said deposit being made, and the cause coming on this present day to be heard, accordingly on the said petition of appeal accordingly, before in the presence of counsel learned on both sides, and the pleadings in the cause being again opened upon debate of the matter and hearing, &c. his Lordship doth order, &c.

If the appeal be from part only of the decree, state the petition of appeal only.

Order for Discharge of Party from Sheriff's Custody, he being interested in the Suit then before the Court.

Complaint being this day made to the Right Hon. the Master of the Rolls by Mr. as counsel for the Plaintiffs in this cause, that on yesterday the the Plaintiff E. H. on leaving this court, when this cause was partly heard, was arrested,* and the said Plaintiff E. H. being present in court in custody of W. J. A., one of the officers of the sheriff of Middlesex, who arrested her, and the said Plaintiff being sworn and examined, and deposing that she is one of the Plaintiffs in this cause, and that on her return she was and before she got home she was arrested by the said W. J. A., by virtue of a warrant from the sheriff of Middlesex, at the suit of the Defendant D. R. for a debt of £ and the said warrant being produced in court, it is thereupon ordered that the said Plaintiff E. H. be forthwith discharged out of custody.

* It is said that every party has a right of privilege to go and hear his own cause determined, and return home from court unmolested.

Order for Accountant-General to transfer Orphan Stock.

Let the accountant-general assign to the orphan-stock, standing in his name, in trust in this cause, and let the deed-poll, dated being an assignment of the said orphan-stock from to the said accountant-general, upon the trusts therein mentioned, and also a memorandum note of the said assignment, dated the same day, signed by clerk to the City Remembrancer, which, in pursuance of an order of were deposited in the bank with the privy of the said accountant-general for the purposes in the said order mentioned, be delivered out of the bank to the said

Order for Sheriff's Officer to attend for arresting a Suitor while attending the Court.

Whereas Mr. L. as counsel for R. A. B. this day moved the Right Hon. the Lord High Chancellor of Great Britain, that the said R. A. B., who, on the day of , was arrested by J. L., the officer for the sheriff of Middlesex, in an action at the suit of S. H. gentleman,

tleman, might be discharged out of the custody of the said sheriff; for that the said R. A. B., at the time of such arrest, was returning home from this court after his attendance as Plaintiff, on a motion made in a cause depending therein, wherein he was Plaintiff, and H. and others were Defendants; or that the said J. L. might bring the said Mr. B. into this court, whereupon, and upon hearing an affidavit of the said R. A. B. read, his lordship doth order that the sheriff for the county of M. do attend with the said R. A. B. in this court to-morrow at the sitting thereof.

Order directing Estates (directed to be sold by the Decree) to be sold by Public Auction.

It is ordered that the estates (directed by the said decree to be sold) be sold by public auction, by such person or persons, at such time or times, place or places, and in such manner as the said master shall appoint, to the best purchaser or purchasers that can be got for the same; and it is ordered that the biddings for the said estates be laid before the said master for his approbation.

Order for Plaintiff to shew Cause why Injunction should not be dissolved, if Exceptions to Answer be over-ruled.

Upon motion of Mr. H. of counsel on behalf of the Defendant, praying that in case the exceptions taken by the Plaintiff to the said Defendant's answer, should, on arguing thereof, or otherwise, be over-ruled by the court, that the Plaintiff might at the same time shew cause on the merits disclosed by the Defendant in his said answer, why the injunction formerly granted in this cause should not be dissolved. It is hereby ordered by the court as prayed.

Order for a Trial at Bar by a Special Jury, and for a View, on a View of the Locus in Quo.

Let Plaintiff, P. and Defendants, proceed to a trial at bar in the court of King's Bench, next term, or at such time as that court shall think fit, by a special jury of the county of S. on this issue, whether, &c.

And the sheriff of the county of S. is to attend the master with his book of freeholders, whereout the names of forty-eight persons are to be taken, and each is to be at liberty to strike out twelve, and the remaining twenty-four are to stand, and be returned on the jury, and six of the jury are to have a view of the premises.

And the Plaintiff P. is to be Plaintiff at law, and the master is to settle the issue if the parties differ.

And to the end said trial may be had, Defendants are forthwith to name an attorney to accept a declaration to appear and plead to issue.

And let both sides produce before the master all deeds, &c. and either side is to be at liberty to inspect and take copies thereof at their own expense.

And such of them as either side shall give notice for are to be produced at said trial. And after said trial shall be had, either party is to be at liberty to apply to the court for further directions.

Order

Order for a Trial at Law.

Doth decree that the parties do proceed to a trial at law in the court of King's Bench, in London, at the sittings in the next term, or at such other time as the lord chief justice of that court shall appoint, in action of trover to be brought by Plaintiff against the Defendant T. for packs of woollens in question in this cause, and the said W. T. is to name an attorney, and appear and accept a declaration, and plead the general issue; and in order that the property of said goods may be tried on such trial, said Defendant is to admit that the goods in question came to his hands, and also to admit a demand and refusal.

And it is further ordered, that all proceedings under said commission, and all other books, &c. be produced, &c. on or before next, as said master shall direct, and either side is to be at liberty to take copies thereof at their own expense.

And it is ordered that such copies thereof be produced at trial as either side desire, and give notice thereof in writing. Further consideration till after trial.

Order for Trial at Law in Ejectment, and for Defendants to confess Lease, Entry, and Ouster.

Let all parties proceed to a trial at law at the next assizes for the county of S. in an ejectment upon the demise of the now Plaintiff, and Defendants to name an attorney to appear to the ejectment, and to enter into the common rule to confess lease, entry, and ouster.

And let the original lease, &c. all deeds, &c. be produced, and reserve all, &c.

Order for a Trial at Law to ascertain whether and when a Person became Bankrupt.

Let the parties proceed to a trial at law upon this issue, *whether M. P. did, on or before* , *commit any act of bankruptcy within the intent and meaning of the several statutes relating to bankrupts, or any of them*, and if the jury shall find he did not commit any act of bankruptcy on or before that day, and that he committed an act of bankruptcy at any time afterwards, in such case the particular time when he committed such act of bankruptcy is to be indorsed on the *postea*.

And Plaintiff here is to be Plaintiff at law, &c. &c.

Order for a Trial at Law.

Doth order that the parties do proceed to a trial at law at the next assizes for the county of Y. upon the following issues, whether, &c.

And it is further ordered, that Plaintiff, the mayor and commonalty of the city of Y. be Plaintiff at law, and it is hereby referred to Mr. &c. to settle the issues in case the parties differ about the same; and to the

the end such trial may be had, Defendants are forthwith to name an attorney to accept a declaration, and appear and plead to issue.

And in case on said trial the jury shall find any particular right, though varying in some circumstances from the issues as laid, it is ordered that the same be indorsed on the *postea*.

Further directions reserved, &c. ; liberty for either party to apply.

Order to retain Bill, with Liberty to bring Action at Law.

Let the Plaintiff's bill be retained for months, and in the meantime Plaintiff is to be at liberty to bring his action against Defendant for what is due to him for the matters complained of in bill, and the same is to be tried at the next assizes for the county of S.

And both sides are to produce before Mr. S. one, &c. upon oath, all books, &c. on or before, &c. either side to take copies, &c. ; and such of them as either side shall give notice for are to be produced at said trial.

And in default of Plaintiff's bringing such action, and proceeding to trial by the time aforesaid, then it is ordered, that Plaintiff's bill do stand dismissed out of this court, with costs, to be taxed by said master.

But in case Plaintiff shall bring such action, and proceed to trial as aforesaid, then the court will reserve the consideration of all further, &c.

Order recommending a Prosecution for Forgery.

His Lordship declared, he was of opinion that the account produced before him, dated, &c. is a forged account, and recommended it to Plaintiff to prosecute said Defendant for forging said account, or publishing same knowing it to be forged.

And said account being filed in the office of the register for filing affidavits in this court, annexed to the affidavit made by said J. H. it is ordered, that same be carefully preserved in the affidavit-office, to the end it may be forthcoming in case any prosecution shall be carried on against the said Defendant, or any other person forging the same.

And that the proper officer in the said office do attend with the said account, on any trial to be had for such forgery, being paid his fees for such attendance.

Order to lay out Residue of personal Estate in Purchase of Lands, and in the mean time in South Sea Annuities, and Interest to go as Rent of Lands when purchased.

Let the clear surplus of such personal estate be with the approbation of the master laid out in the purchase of good lands and heritage in that part of Great Britain called S. pursuant to the directions of said will, and let such lands and heritages, when purchased, be settled with the approbation of said master upon such persons, and to such uses, intents, and purposes, and with the same remainders over, and upon the same trusts, and under the same restrictions, and subject to the payment

ment of the same sum or sums of money as are mentioned and comprized in the, &c. In the mean time and until such purchase can be made, let such surplus of the said testator's estate be placed out at interest, from time to time, on government, or real securities, with the approbation of the master, in the names of, &c. they declaring the trusts thereof according to the said will, and let the interest and dividends arising thereon be paid and applied to such persons, and to the same uses, intents, and purposes, as the lands and heritages ought to be according to the said testator's will.

Order to continue Securities, which the Master shall approve, and to put others in Suit.

Let the master look into the securities on which any part of the said testator's personal estate is invested; and let such part thereof as the master shall approve of be continued; and let the money due on such part thereof as the master shall think unfit to be continued be called in; and let the master appoint a proper person for that purpose, and make him a reasonable allowance in respect thereof; and let such of the said securities as the master shall think proper to be put in suit accordingly in the names of said executors, they being indemnified out of said estate.

Order where Infant's Money has been laid out in a Purchase, such purchased Estates to be considered as personal Estate.

Let the master's report be confirmed, and let the estates therein mentioned be conveyed to trustees, to be approved of by said master, in trust for Plaintiff, Sir B. B. his executors, administrators, and assigns, and let such conveyances be settled by said master, and declare that said trustees are to stand seized of said estates in trust for said Plaintiff, Sir B. B. his executors, administrators, and assigns, as part of his personal estate; and in case Plaintiff shall live to attain the age of twenty-one years, then and in such case, let the trustees convey and assure the said premises to Plaintiff, his heirs and assigns for ever.

Order to continue such Securities as the Master shall approve, and put others in Suit.

And let the master inquire what part of the said testator's estate is standing out upon securities, and what debts are owing to the said estate, and whether any, and which of them, are proper to be called in or continued; and let such of them as the master shall find are proper to be continued accordingly, and such of them as the master shall find are proper to be called in with the approbation of the said master, and if it shall be necessary to put any of them in suit, let the same be put in suit accordingly, in the name of the Defendant E. C. the executrix, and let her be indemnified therein out of the said testator's estate.

Order for a Corporation to produce Books, and the Officers to be examined upon Interrogatories.

And for the better clearing said accounts, all parties are to produce all books, &c. in the custody or power of them, or any of them, respectively, as said master shall direct, and such of them as shall be produced by Plaintiffs are to be produced by them respectively upon oath, and such of them as shall be produced by Defendants, the charitable corporation, are to be produced upon the oath of their proper officer or officers respectively, and Defendants, or such committee of men or officers of said corporation as Plaintiff shall require, and said master shall direct, are to be examined upon interrogatories relating to the matters in question; or any of them.

Order to refer Matters in Difference to Arbitrators and Umpire.

Let all matters in difference between the parties be referred to arbitration and determination of T. T. and S. S. and they to make their award on or before, &c. and in case they shall not agree, they are to name an umpire, and he is to make his umpirage on or before, &c. and both parties are to produce all books and papers relating to the matters in question, in their custody or power, before the arbitrators and umpirage respectively, or such of them as the arbitrators and umpire shall respectively direct, to be ascertained by the oath of the respective parties producing same; and the award or umpire is to be made an order of this court, and no bill in equity is to be brought against the arbitrators or umpire.

Order for a Will to be delivered out of the Prerogative Court, in order to be proved on a Commission.

Upon opening the matter the present day, &c. by Mr. M. of counsel for the Defendant T. A. it was alledged, that this cause came on to be heard the, &c. and it was ordered, that same should stand over, with liberty for the Defendant T. A. to prove the will of W. A. dated, &c. made and executed by him at B. in France, whereof Defendant T. A. is the only devisee and executor; that said Defendant, on the death of said testator, proved the will in common form, and thereupon said testator's original will was deposited in the prerogative court of C.; that W. one of the witnesses to said will, is master of a packet-boat which goes from D. to C. and B. in F., and H. one of the other witnesses to said will now resides at B. aforeaid, and B. the other witness, lives in L.; that as said Defendant T. A. cannot get said W. up to L. or said H. to come over from B. it is necessary that he should have a commission to be executed at D. and B. in order to examine said witness to prove said will, at which commission it will be necessary that the said will be produced; and it being customary in such cases for the prerogative office to deliver out original wills, to be proved at places distant,

on

on taking bond from one or more sufficient persons, in a reasonable penalty, to return same, said Defendant, T. A., hath applied to the register and record keeper of said Prerogative Court, to have said will delivered out accordingly; but they refuse to deliver out same upon any security, but insist upon sending a messenger of their own with it, which will put said Defendant to a considerable expense; it was therefore prayed that, &c. whereupon hearing, &c. doth order, that said Defendant, T. A., be at liberty to take out a commission for examination of his witnesses, at B. and D. aforesaid, to prove said will, and that Plaintiff and the other Defendants in this cause do join in commission and strike commissioners names within six days after notice hereof; and in default thereof, that said Defendant, T. A., be at liberty to sue out such commission, directed to his own commissioners; and it appearing that the Defendant T. A. is the only devisee who can claim any real estate under said will, it is ordered, that the original will be delivered out by the proper officer of the Prerogative Court, to a proper person to be named by the said Defendant, in order to be proved at said commission, such person first giving security, to be approved of by the judge of the Prerogative Court, to return same in from the delivery thereof to him.

Order for the like Purpose.

Upon opening, &c. by Mr. Attorney-General, of counsel for Plaintiffs and Defendants in this cause, it was alleged that W. R., having, in his life-time, contracted several debts on the , made his will, and thereby devised to Defendant L. H. and W. R. his son, all his real estate, in trust, to be sold for payment of his debts, and appointed them executors, and died in ; soon after which Defendants, his executors, proved the same in common form, and thereupon said Testator's original will was deposited in the prerogative office; and that Plaintiffs, in term, , exhibited their bill in this court against Defendants, for an account of personal estate, and to have said will proved, and Testator's real estate sold for payment of his debts, to which said Defendants have appeared, and put in their answers, and Plaintiffs have replied, and the cause being at issue, a commission issued for the examination of witnesses in the county of , at which commission it will be necessary to have said Testator's will proved, in regard Defendant R., who is heir at law to said Testator, is an infant, and it being customary, in such cases, for the prerogative office to deliver out original wills, to be proved in the country, on taking bond from one or more sufficient persons, in a reasonable penalty, the parties in this cause have applied to the registers of the Prerogative Court to have the same delivered out accordingly, but they refuse to deliver out same on any security, but insist to send a messenger of their own with it, which will put the parties to a considerable expense; and in regard Testator's estate is not sufficient for payment, it was therefore prayed that the registers of the Prerogative Court, or their deputy, may forthwith deliver out said original will, in order that same may be proved at said commission, upon giving sufficient security to bring back and re-deliver same unto said office, in six weeks. Whereupon, and upon hearing Mr. Solicitor-General, of counsel for the register of the Prerogative Court, an order in a cause of L.,
against

against D., dated ; an order in a cause, B. against B., dated , and an order S. against B., dated , read, and what was alledged by the counsel for said parties, his Lordship doth order, that said original will be delivered out by the proper officer of the Prerogative Court, to a proper person to be named by Plaintiffs and Defendants' said executors and devisees under said will, in order to be proved at said commission, such person first giving security, to be approved of by the judge of the Prerogative Court, to return same in six weeks from the delivery thereof to him.

Order, touching the Management of Estates in the West Indies, and the Appointment of a Receiver.

THE CASE.

R. C., by will, devises a plantation at St. C., to his eldest son D., for life, with limitations to other children, and directs, that the clear produce of his plantation, till his debts and legacies should be paid, to be from time to time shipped in such ships as Defendant C., his heirs and assigns, should direct, and consigned to him, and that his son should send an account every year of the produce, and if they did not, then Defendant C., with the consent of his trustees, was to put an overseer on the estate.

The bill was brought against the trustees and sons, for an account of the rents and profits, and that an overseer or receiver might be appointed of the estate.

The decree referred it to the master, to appoint a proper person in L., to whom the Defendant C. should consign and send over the profits of the plantation and houses in question to be disposed of, according to Testator's will, and Defendant C. was accordingly, from time to time, to consign and send over the profits to such person so to be appointed, and R. S. was appointed consignee.

Order.

Let R. S., the consignee, approved by the master, twice in every year, transmit to Defendant C. a true account of the sugars and other produce of the plantation, consigned to and received by him upon the respective consignments, and of the sales thereof; and let said R. S. make insurances upon the sugars and other produce of the plantation, that shall be consigned to him, in such manner as shall be reasonable, with the approbation of Defendant D. C., or of such person as he shall appoint, and that the charges thereof be paid out of the money arising by the sale; and let said S. transmit over from the said plantation to D. C.'s attorney at St. C. such stores, provisions, and other effects, for the necessary use and consumption of the said estate, as said R. C. shall, by letter, from time to time, desire, with the approbation of the master. And let Defendant C. deliver over to said R. S. an inventory of the negroes, mills, and utensils, now upon the plantation, and let said R. S. pay or remit to the said R. C. such sums of money as shall be reasonably laid out by said C. in negroes, utensils, cattle, and repairs upon the plantation, to be ascertained by an account to be sent from time to time by said C., to be verified by affidavit, which sums are to be settled by the master, if the parties differ. And let the said S. pass his accounts annually before the master, and pay what shall appear to be due from him, on the balance of his account, from time to time, into the bank, with the privy of the Accountant-General of this court, &c.

Another^d

Let it be referred to the master to approve of a proper person in the island of B., to manage the Plaintiff's, the infant's, estate there, and receive the rents and profits thereof, and to remit same over to Defendants in E., in trust for Plaintiff ; and what shall be from time to time so remitted by such person, so to be approved of as aforesaid, to Defendants, is, after a deduction of what shall be allowed for Plaintiff's maintenance, to be placed out at interest, &c.

Let it be referred to the master to approve of a proper person to be appointed guardian of the person and estate of Plaintiff, E. O., the infant, and he is to state same to the court, and thereupon such further order shall be made relating thereto as shall be just.

And let the master appoint one or more proper person or persons in the island of B. to manage said Plaintiff's, the infants, estate there, and to receive the rents, produce, and profits thereof, and he or they is or are to remit same to a proper person in L. to be approved of by the master for that purpose. And the said master is to make such person, to whom the same shall be so remitted, a reasonable allowance in respect thereof ; but such person is first to give security, to be approved of by the master, daily to account for and pay what he shall so receive by such remittance, as this court shall direct.

Order appointing an Interpreter for examining a Witness who did not understand English.

Upon consideration this day had by the right honorable the Master of the Rolls, of the humble petition of the Plaintiff, stating (among other things) that this cause is at issue, and that J. L. P. of, &c. is a material witness for the Plaintiff, and that the said J. L. P. speaks the French language, but does not understand the English language, so that the Plaintiff cannot have the benefit of his testimony without the assistance of an interpreter. And therefore it was prayed, and his Honor doth accordingly order that B. B. of, &c. be appointed interpreter to the said J. L. P. on his being examined as a witness in this cause, on the behalf of the petitioner. And that the said B. B. be sworn, truly to interpret the oath to be administered to the said J. L. P. and also the interrogatories on which he shall be examined, and his depositions to such interrogatories, and likewise to keep such depositions secret, until publication shall duly pass in this cause, of which notice is first to be given to the Defendant's clerk in court.

Order referring Matters in question to Arbitration to confess Judgment in Action.

Whereas Mr. Solicitor-General, of counsel for the Plaintiff, this day moved and offered divers reasons unto the right honorable the Lord High Chancellor of Great Britain, that all matters in difference in this cause between the Plaintiff and Defendant, might be referred to arbitration in the presence of Mr. M. of counsel for the Defendant, who consented thereto.

Whereupon

Whereupon his Lordship doth, by consent, order that the Plaintiff do confess judgment in the action at law commenced against him by the Defendant, for the sum of £ the penalty of the bond in the pleadings of this cause mentioned, and on which the said action is brought, and by the like consent it is ordered that it be referred to C. K. of L. merchant, named on the part of the Defendant, and to G. R. of, &c. named on the part of the Plaintiff, and to I. A. of, &c. nominated by the said C. K. and G. A. or to any two of the said arbitrators, to take the accounts in question in this cause between the said Defendant and the Plaintiff, and I. M. the younger, as partners in the pleadings of this cause named, and also between the Defendant and the Plaintiff separately, and to ascertain and award the balance due to any or either of the said parties, and to award and direct the payment thereof, the said Defendant hereby consenting to confess a judgment in the Court of King's Bench, for such balance, if any, as may be awarded and directed to be paid by him to the Plaintiff and I. M. the younger, or to the Plaintiff. And by the like consent it is ordered, that in case a balance shall by the said award be found due from the said Defendant, then the said judgment against the Plaintiff shall be vacated, and the said arbitrators, or any two of them, are to make their award in writing, touching the matters referred to them, on or before, &c. with liberty for any or either of the parties to apply to the court from time to time to enlarge the time for the arbitrators making their said award as there shall be occasion; the Plaintiff and Defendant hereby agreeing to consent from time to time to such enlargement thereof as the court shall think reasonable. And by the like consent it is ordered, that the said award of the said arbitrators, or any two of them, to be made in writing as aforesaid, be final and conclusive between the parties. And by the like consent no exceptions are to be taken to the said award, but either party is to be at liberty to apply to the court, to set aside the same as they shall be advised. And by the like consent it is ordered, that all books, bonds, agreements, deeds, securities, bills of exchange, bills of parcels, invoices, policies of insurance, receipts, letters, accounts of sales, and all other vouchers, papers, and writings in the custody or power of either of the parties relating to the matters in question in this cause, be produced before the said arbitrators as they shall direct, to be ascertained by the oaths of the party producing the same, and the parties are to be examined, &c. and are to be sworn before one of the masters of this court. And by the like consent, no bill or bills in equity is or are to be filed, or any action or actions brought or prosecuted against the said arbitrators, or any or either of them, for any matter or thing they shall do in or about, or touching the matters hereby referred to them. And by the like consent it is ordered, that the injunction granted in this cause be continued to stay the Defendant from proceeding at law against the Plaintiff, for and touching any of the matters in question in this cause, until the further order of this court. And the costs of the action at law, and in this court, are to abide the event of the said reference, and to be paid to the party in whose favor a balance shall be awarded. And by the like consent the costs of the said reference are to be paid in the discretion of the said arbitrators, or any two of them, who are to award or direct by whom, and to whom, and in what manner the same shall be paid, including a compensation to be made to the said

said arbitrators for their trouble, and the charges and expenses attending the stating an account or accounts, and preparing the said award.

Order for an Injunction to stop Proceedings at Law, reciting the Proceedings.

Upon opening of the matter this present day, unto the, &c. by Mr. H. of, counsel for the Plaintiffs, it was alledged, that, in the Defendant and T. E. deceased, agreed to take a farm of R. C. esq. and P. C. widow, for carrying on the farming business in copartnership, for their respective benefits in equal moieties, and in consequence of the said agreement obtained a lease from the said R. C. and P. C. of a messuage, &c. at a yearly rent therein mentioned, and the Defendant and the said T. E. about entered upon the said premises, and proceeded to carry on the farming business therein for their mutual benefit, which they did carry on accordingly until the death of the said T. E. That the said T. E. died in last, having made his will, and thereby bequeathed his share of the said lease for the remainder of the said term upon trust, to carry on the farming business therein for the benefit of his family, and appointed the Plaintiffs joint executors of his will, who duly proved the same. That the Defendant and the said T. E. considerably improved the said premises by their good management, and by laying out money thereon, to which the said T. E. contributed as much as the Defendant, and at the time of the said T. E.'s death, there was in and upon the said premises live and dead stock, and crops of corn, and hay, and potatoes, and other produce of the preceding year, and divers other effects which were the property of the Defendant and the said T. E. as partners as aforesaid, and were of the value of many hundred pounds; and there was also at the time of the said T. E.'s death, a considerable crop of corn and artificial grass, and other produce of the earth standing and growing, sown and planted on the said farm and lands; and there was also other property belonging to the Defendant and the said T. E. as partners as aforesaid to a considerable amount. That upon the death of the said T. E. the Plaintiffs, as his executors, took possession of his moiety, and jointly with the Defendant carried on for some time the farming business on the premises, but in the month of last, the Defendant caused a notice in writing to be delivered to the Plaintiffs to quit the said messuage or teneiment and premises before, &c. and in the said notice signified to the Plaintiffs, that the copartnership which existed between the Defendant and the said T. E. respecting the said premises, determined at the death of the said T. E. and that the said lease was solely vested in him as surviving lessee. And he hath lately commenced an action of trespass against the Plaintiffs in the Court of King's Bench for entering on the said premises and taking possession of the said stock, crops, and effects, and other produce and property upon the same, although he in his said notice stated that he conceived that the said personal representatives of the said T. E. were entitled to a moiety of the stock, which he was willing to have separated, or to pay for, and hath levied his damages in the said action at £ and to justify such proceedings, pretends, that the said T. E. having died as aforesaid, the said lease and all the stock, crops, and effects, upon the premises, belong to him

by

by survivorship, for his own use and benefit, and that the Plaintiffs, as executors as aforesaid, have no interest therein. Charge contrary, and that the said T. E. and the Defendant kept separate accounts of their transactions, business, and receipts, and payments, in respect of the premises, and that it was agreed or understood between them, as well as by the said R. and P. C., that the rent reserved on the said lease, and the land-tax payable in respect of the said premises, should be paid by them respectively in moieties, and that they accordingly paid the said rent in moieties, and had allowance to them in moieties, the land-tax, and other disbursements: That the Defendant has in his custody divers books, papers, and writings, relating to the said partnership, but refuses to produce them; and although the Defendant well knows the matters before-mentioned to be true, yet knowing that the Plaintiffs have not a sufficient defence at law, he is proceeding to trial and judgment against the Plaintiffs in the said action, and also threatens to proceed at law against them by ejectment, to turn them out of possession of the premises: That the Plaintiffs have therefore exhibited their bill in this court, praying that the Plaintiffs may be declared to be entitled as executors as aforesaid, to a moiety of the said lease, for the remainder of the said term of years, and to a moiety of all the stock, crops, and effects, upon the premises, belonging to the partnership, and entitled to carry on the farming business on the said premises, together with the Defendant, during the remainder of the said term, for the mutual and equal benefit of themselves, as executors as aforesaid, and the said Defendant, in moieties; and that the said Defendant may be decreed to assign over a moiety of the said lease to the Plaintiffs, as executors, to permit them to take and continue the possession of a moiety of the premises, and of the said stock, crops, and effects, and to carry on the said business on the said premises, in partnership with him, during the remainder of the said term of years, for their equal benefit; and in case it shall be necessary that the accounts of the said partnership, or any of them, should be taken, then that such accounts may be taken accordingly, and that the Defendant may be restrained by the injunction of this court from proceeding in the said action, and from commencing or proceeding in any other action at law against the Plaintiffs, for the purpose of ejecting them from or disturbing them in the possession of the premises, or otherwise, touching the matters aforesaid; to which bill the Defendant has put in his answer, and thereby admits, that the said T. E., and he, the said Defendant, did agree to take jointly the farm and lands in the bill described, and jointly to stock and farm the same for their respective benefit, in equal moieties; and admits that such indenture of lease, as in the bill mentioned, was granted to them; and that they entered upon the premises about , and carried on the farming business thereon, for their mutual benefit, but say that difficulties having frequently occurred between him and the said T. E., in settling their accounts respecting the said farm, it was agreed between, about years before the death of the said T. E., to divide the produce of the said farm, consisting principally of corn and lambs, between them, and that each should sell and dispose of his own share at his own risk, and on his own separate account, and both paid the rent in equal moieties, each of them paying his own share, but one receipt only was given in their joint names which was sometimes taken and kept by the Defendant,

Defendant, and sometimes by the said T. E. but he did not always advance or contribute equally with the Defendant in laying out money upon the said farm, but that he was at the time of his death indebted to the Defendant for money advanced by him in prosecution of the said farming business, and admits that the Plaintiffs are entitled to a moiety of the stock and crops upon the said farm, but submits that they are not entitled to a moiety of the lease, or to carry on the said farming business jointly with the Defendant. And the Defendant claims the said lease by right of survivorship, but admits that the Plaintiffs, for near two months after the death of the said T. E. acted in the management of, and gave directions about the business of the said farm, and were not interrupted during that time by the Defendant, and admits he has brought such action as in the bill stated, and is proceeding therein, and insists he has a right so to do, and also that he is advised to bring an ejectment against the Plaintiff, to turn them out of possession of the premises. It was therefore prayed that an injunction might issue to restrain the said Defendant from all further proceedings at law against the Plaintiffs in the action brought against them, and now depending, and also from commencing any other action at law against the said Plaintiffs touching the matters in question in this cause, until the hearing of this cause, or until the further order of this court.

Upon hearing Mr. Solicitor-General, of counsel for the Defendant, what was alledged by the counsel on both sides, it is ordered accordingly.

Order of Reference to Arbitrator, who is to examine upon Oath. Costs to be in his Discretion, and no Bills to be filed against him as Arbitrator.

His Lordship doth, by consent order, that all matters in difference between the Plaintiffs and Defendants in this cause, be referred to the award and determination of I. H. of, &c., esq. so that he shall make and publish his award, in writing, of and concerning the premises in question, on or before now next ensuing, or on or before such further time as hereinafter mentioned. And that the said parties do stand to, abide by, perform, and fulfil the award which the said arbitrator shall so make of and concerning the premises. And by the like consent it is ordered, that the said arbitrator is to be at liberty to examine upon oath, or upon interrogatories, or otherwise at his discretion, the said Plaintiffs and Defendants, or any of them, or any other person or persons who shall be produced as a witness or witnesses before him by either party, such Plaintiffs and Defendants, or other person or persons being sworn before one of the masters of this court, or before a master extraordinary in the country, if there shall be occasion. And the said parties are to produce before the said arbitrator, upon oath if required, all deeds, instruments, books, papers, writings, and accounts, in their, or any, or either of their custody or power, touching the matters in question, or any of them, as the said arbitrator shall direct. And by the like consent it is ordered that the costs of this suit, and also of the said reference and award, and all other costs, charges and expenses attending or relating to the matters in difference

ference between the said parties, or either of them, shall be in the discretion of the said arbitrator, and shall be paid in such manner, and by whom, and to whom, and at such time or times as shall be directed by his award. And by the like consent it is ordered that the said arbitrator shall be at liberty, by writing under his hand, to enlarge the time for making his award from time to time as he shall see occasion; and that the said arbitrator may, if he thinks fit, proceed *ex parte* in the said reference, in case of the refusal or neglect of any of the said parties to attend him thereon, after reasonable notice in that behalf. And by the like consent it is ordered, that no bills or bill is or are to be filed in any court of equity, by any or either of the said parties, against the said arbitrator for any matter or thing he shall do in, about, or touching the matters to him hereby referred; and any or either of the said parties are or is to be at liberty to apply to this court to have the said award made an order of this court.

Order, upon a Petition, for the Sale of Estates.

It was ordered, on the consent of the parties therein mentioned, that the said estate should be sold, before the master, together, or in parcels, as the said master should think fit, and all proper parties were to join, as the said master should direct. And in order to the said sale, all deeds and writings in the custody or power of any of the parties relating thereto, were to be produced before the said master upon oath; and it was ordered, that the money arising by such sale should be paid by the purchaser or purchasers into the Bank, in the name and with the privity of the Accountant-General of this court, to be there placed to the credit of the said cause, subject to the further order of this court. And it was further ordered, that S. T., &c. the petitioners, should be at liberty to proceed in the said suit in the names of the Plaintiff A. S. &c. the petitioners, indemnifying them against all costs that might be occasioned thereby.

SECT. IV.—AFFIDAVITS.

AFFIDAVITS are usually for certifying the service of process, or other matters touching the proceedings in a cause; and generally where any motion or petition is made, that is not of course an affidavit of the facts alledged is necessary.

The time, place of residence, and also the title of every person who makes an affidavit ought to be inserted therein; and it ought to set forth the matter of fact only, which the party intends to prove thereby, and not any of the merits of the cause.

And to all affidavits sworn in this court the deponent must sign his name or mark on the left hand side of the affidavit, and the jurat on the right side.

Where a whole petition was recited in an affidavit of service, the costs were ordered out of the attorney's pocket. (1 *Atk.* 139.)

The affidavit must be true in substance, with all necessary circumstances of time, place, manner, and the other material incidents, and must also be sufficient to sustain the case made by the petition, or motion of which it is the ground work, so it should be pertinent and material (*Hind.* 451.)

Not swearing expressly to words spoken, but adding,—
“to that effect is a proper caution in an affidavit.” (2 *Atk.* 60.)

If the Plaintiff's name, the court, the return of the subpoena, the manner of service, or any thing material, be omitted in the affidavit, no attachment must issue upon it for non-appearance, and so of the service of other process, and of orders, &c.; for till a due service, &c. be shewn, no contempt appears to the court.

In an affidavit of notice, it is not enough to say, that notice was given, or the copy delivered to the party's clerk in court, but his name must also be mentioned that it may appear with certainty; and it must say, "notice in writing," or words to that effect, and if he who serves the notice does not know that the person on whom it is served is the party's clerk in court, he must say, "as he is credibly informed, and verily believes," first taking care that he receives information accordingly. But if a notice be left at the clerk in court's seat with his clerk or agent, such clerk or agent need not be named.

An affidavit of several persons by the manner of wording it may be made either joint and several, or joint or several; and great care and exactness should be observed in drawing affidavits. They ought to be fairly wrote in one hand, without blots or interlineations of any words of substance; otherwise the master may refuse to accept them; or if he does, the register of affidavits, or his deputy, may refuse to file them; and no use can be made thereof in court. (*Vide Ord. Chan.* 15. 18. and 92.)

Affidavit that the Plaintiff had Writings but hath lost them, proper to be annexed to a Bill.

Between A. B. Complainant.
and
C. D. and others, . . . Defendants.

The said Complainant maketh oath, that some time since, to wit, on, &c. last, the writings now sued for in this cause, were in his, this deponent's custody and possession, but since the said time, he, this deponent, hath accidentally lost them; and this deponent further saith, that he doth not know where the said writings are, unless they are in the hands or custody of the said Defendants, some or one of them, or else that the said writings are now, or late were in the custody of the said Defendant, J. K. as he is credibly informed and verily believes, &c.

A. B.

Sworn, &c.

Affidavit of having committed Waste.

Between A. B. Plaintiff.
and
C. D. Defendant.

A. B. the Complainant, maketh oath, that C. D. the Defendant in this cause, on, &c. last past, did pull down and destroy part of the house, and out-houses, &c. to which he, this deponent, hath lawful title, being seized in fee of the said estate and premises in question, as this deponent is advised and believes, and for which he is now prosecuting the Defendant, and that the said C. D. did also fell and cut down several timber trees, upon the lands belonging to the same, and continues to commit other waste and spoil, in and upon the said estate of this deponent, to his great loss and damage.

A. B.

Sworn, &c.

Affidavit by a Quaker

In Chancery.

In the matter of the trustees of the will of J. G., deceased.

W. H., of, &c. surveyor, one of the people called Quakers, maketh affirmation, and saith, that he, this affirmant, was, in or about the month of , by sir T. C., &c. &c. to survey a certain messuage or tenement, situate, &c. then in the occupation of, &c. and then, which this affirmant was informed, was on lease to them for a term of years, which would expire at , at the clear annual rent of . And this affirmant saith, that he did accordingly survey the said premises, which consisted of a messuage or dwelling-house, built of brick or timber, &c. and this deponent found that the said buildings thereon were very old and decayed, and the greater part of them not capable

capable of being substantially repaired; and it appeared to this affirmant, that if Messrs. O. would agree to lay out the sum of £ in erecting new and substantial buildings on the scite of part of the said premises, and in repairing such parts thereof as were capable of repair, and would surrender the existing lease and take a new lease thereof, for the term of years, at the clear yearly rent of £ , that it would be as beneficial to all persons interested in the said premises, as could reasonably be expected. And this affirmant saith, that, in his opinion, it would not have been prudent to delay making a new agreement until the expiration of the old lease; or the infant J. S. G. should have come of age, because the property in question, and all the property in the neighbourhood that can be immediately improved, has now increased in value at present by reason of the new docks made there, but if advantage be not taken, that then all the improvements consequent upon the new docks may be, in years time, completed upon other premises.

Affidavit of Sir T. C. &c. that an Agreement entered into is for the Benefit of the Infant, &c.

Make oath and say, that, to the best of their information and belief, the agreement made and entered into by and between these Defendants and Messrs. O. with respect to a new lease of the messuage and premises now in their occupation, and part of the estate of the late J. G., deceased, was a proper and advantageous agreement, and beneficial to the infant J. S. G., and all other persons that are or may be interested in the said premises. And these Deponents had no other view or motive for the making of the said agreement, than the advantage of the parties interested in the said premises.

CHAPTER VIII.

DECREES.

THE most ready way of shewing how a decree ought to be drawn, appears to be by exhibiting the skeleton of a decree with appropriate observations.

This cause coming yesterday, as also on this present day to be heard and debated before the Right Honorable the Lord High Chancellor of Great Britain, in the presence of counsel learned on both sides, the substance of the Plaintiff's bill appeared to be, (*here recite the bill briefly*). Therefore that the said Defendant may account, &c. (*the prayer of the bill,*) and to be relieved is the scope of the Plaintiff's bill. Whereto the counsel for the Defendant alledged, that he by his answer admits, &c. (*here set forth the substance of the answer*). Whereupon, and upon debate of the matter, and hearing the will of the said E. F. the answer of the Defendant, a paper-writing or account of the testator's hand-writing relating to his estate, marked No. 1, and the proofs taken in this cause read, and what was alledged by the counsel on both sides, his Lordship declares that, &c. (*here set forth the decree of the court.*)

But observe, that if a cause be heard upon bill and answer only, and the decree be thereupon made, then you say, after the words, "coming on to be heard and debated before, &c. upon the bill and answer, in the presence of, &c." Whereupon, and upon debate of the matter, &c. (*as in the order,*) this court doth think fit, and so order
and

and decree, and accordingly it is ordered, adjudged, and decreed, that, &c. (*here insert the decretal part of the order on hearing.*)

And if it be a re-hearing upon the order on hearing, then, after reciting the order on hearing, say thus—"with which said order the said Defendant being dissatisfied, he petitioned his Lordship for a re-hearing of the said cause, and to have the order rectified in several particulars; and thereupon, by an order bearing date, &c. it was ordered, that the said cause should be heard the, &c. qf, &c. upon the Defendants depositing ten pounds with the register, (as you find by the words of such order). And the said Defendant having deposited the said ten pounds accordingly, and the said cause coming on to be re-heard in the presence of counsel, &c. the counsel for the Defendant insisted that, &c. (setting forth the substance of the Defendant's, argument as recited in the order of re-hearing). Whereto the counsel for the Plaintiff insisted that, &c. (reciting what the Plaintiff's counsel insisted upon, as mentioned in the said order of re-hearing.) Whereupon this court did declare and decree, &c." (according as it is expressed in such order of re-hearing,) and if upon the re-hearing the former order be confirmed, say,—
 "Whereupon, and upon debate of the matter, and hearing what could be alledged by counsel on both sides, this court declared, that the decree formerly pronounced in this cause was just, and did accordingly order, that the same should stand, &c." (as it is in the order).

But towards the bottom or end of every decree or dismissal you draw up, in the last sheet upon the left hand, you write these words, viz.

"It agrees with the records, orders, and report, and is examined by A. B. for Plaintiff. (Which A. B. is the Plaintiff's

Plaintiff's six clerk, if drawn up for the Plaintiff; but if drawn up for the Defendant, then the Defendant's six clerk is to sign it. But if there be only one order, you say, only order, and if no report in the cause you leave the same out."

Words of course used in the inrolment of a decree made upon bill and answer, the Defendant making default at the hearing, viz.

"Whereas heretofore, that is to say, in or about Hilary Term, which was in the year of our Lord A. B. gentleman, exhibited his bill of complaint into this honorable court of Chancery, against C. D. thereby setting forth, that, &c. and further setting forth, &c. (the bill briefly stated) and to be further and otherwise relieved in the premises, the said Complainant prayed the aid of this honorable court, and that the usual process of subpoena might be thereout awarded against the said Defendant to compel him to appear to, and answer the said bill, which being granted, and the said Defendant duly served therewith, he appeared and answered accordingly." (*Hind. 445.*)

Before the answer, viz.

"And the said C. D. by his answer, said, &c. (the answer set out omitting the schedule, and words of course concluding the answer,) and denied all unlawful combination and confederacy, and concluded his answer with the general traverse, as by the said bill and answer remaining, as of record in this honorable court may more fully appear. (*Hind. 445.*)

Before

Before the order on hearing, viz.

“ And the said cause being thus ready for an hearing on the bill and answer, a day was by this court appointed for the hearing thereof, on which day, being Friday, the 4th day of August, 1815, the said cause came on to be heard before his Honor the Master of the Rolls, in the presence of counsel learned, for the Complainant, no one appearing for the Defendant, although he was duly served with a subpoena to hear judgment, as by affidavit then produced and read appeared. Whereupon, and upon hearing the Defendant's answer, and what was alledged by the counsel for the Complainant, his Honor did order and decree,” &c. (the decretal order). (*Hind.* 445, 446.)

Words preceding the order to confirm the report nisi.
viz.

“ And whereas, on Thursday, the 18th day of January, 1816, upon motion that day made unto this court by the Complainant's counsel;” (the order set out *verbatim*.) (*Hind.* 446.)

Words preceding the order to confirm the report absolute, viz.

“ And whereas, on Friday, the 26th day of January, 1816, upon motion that day made unto this court by the Complainant's counsel, and upon allegations that the Defendant had been duly served with the said order of the 18th day of January, then last past, as by affidavit appeared, and that no cause had been shewn to the contrary thereof, as by the register's certificate also appeared; it

was

was prayed that the said order might be made absolute, which was ordered accordingly." (*Hind.* 446.)

Words preceding the order to make the decree absolute, viz.

" And whereas, on Thursday, the 9th day of November, 1815, upon motion made unto this court by the Complainant's counsel ; and upon allegation that the Defendant had been served with a subpoena to shew cause against the said decree, as by affidavit it appeared, and no cause had been shewn to the contrary thereof, as by the register's certificate appeared, it was prayed that the said decree might be made absolute as against the said Defendant, which was ordered accordingly."

Words preceding a master's report, viz.

" And whereas, the said Mr. Ord afterwards made his report, in the words and figures following : " (report set out *verbatim*.) (*Hind.* 447.)

Decree on Act of Parliament for the more easy Redemption of Mortgages.

Upon opening, &c. that the Plaintiff hath exhibited his bill in this cause against the Defendant, setting forth, that, &c. and praying, &c. and the Defendant having appeared to the Plaintiff's bill, and by his answer thereto admitting the Plaintiff's mortgage, and that the principal money and interest secured thereby is still due to the Plaintiff, and now offering to pay the same, together with his costs at law and in this court; and therefore, pursuant to the act of parliament in that case made and provided, praying, &c. Whereupon, &c.

Decree pro Confesso, Defendant being brought by Alias Pluries Habeas Corpus.

Whereas the Plaintiff did, on _____, exhibit his bill in this court against the Defendant, setting forth (among other things,) that, &c. (*state substance of the bill*), and therefore praying process of subpoena against the Defendant, and the Defendant being served with a subpoena to appear to and answer the Plaintiff's bill, appeared accordingly, but being in contempt to an attachment for want of his answer, and being arrested thereon, the sheriff of _____ returned a *cepi corpus* thereon, and thereupon, by an order of _____, it was ordered that the messenger attending this court should apprehend the Defendant, and bring him to the bar of this court to answer his said contempt; and the Defendant being accordingly apprehended, and brought to the bar of this court by the messenger on _____, and persisting in his said contempt, it was then ordered, that the Defendant should be turned over to the prison of the *Fleet*, there to remain until he should answer the plaintiff's bill, clear his contempt, and this court make other to the contrary; whereupon, by an order of _____, it was ordered that an *habeas corpus* should issue, directed to the warden of the *Fleet*, at the return thereof, to bring the Defendant to the bar of this court to answer his said contempt; and the Defendant having been accordingly brought to the bar of this court on _____, and persisting in his contempt, it was then ordered that he should be remanded back to the prison of the *Fleet*, and that an *alias habeas corpus cum causis* should issue, directed to the warden of the *Fleet*, at the return thereof, to bring the Defendant again to the bar of the court, to answer his said contempt; and the Defendant being again brought to the bar of this court, on _____, to answer his said contempt, and still persisting therein, it was then ordered that he should be remanded back to the prison of the *Fleet*, and that an *alias pluries habeas corpus cum causis* should issue, directed to the warden of the *Fleet*, at the return thereof, to bring the Defendant again to the bar of this court, on _____, to answer his said contempt, and still persisting therein, it was then ordered that he should again be remanded back to the prison of the *Fleet*, and that the Plaintiff's clerk in court attend with the record of the Plaintiff's bill, in order to have the same taken *pro confesso* against the Defendant; and the Defendant being this day brought to the bar of this court accordingly, in the presence of the Plaintiff's counsel, whereupon, &c.

Decree

Decree pro Confesso on Sequestration.

Whereas the Plaintiff did, on _____, exhibit his bill in this court against the Defendant, setting forth, (amongst other things,) that, &c. and therefore praying process of subpoena against the Defendant, to compel him to appear to and answer the said bill, and that, (*state prayer*), and forasmuch as the Plaintiff having sued out a subpoena to compel the Defendant to appear to and answer the Plaintiff's bill, the Defendant appeared thereto accordingly, but stood out all process of contempt for want of his answer, and a commission of sequestration under the great seal was awarded against him, notwithstanding which, the Defendant persisting in his contempt, the Plaintiff obtained an order, dated _____, that this cause should be set down to be heard before _____ next after the causes then already appointed, in order that the Plaintiff's bill might be taken *pro confesso* against the Defendant, and that the Plaintiff's clerk in court should then attend with the record of the Plaintiff's bill for that purpose; and this cause coming on this present day to be heard before _____, in the presence of the Plaintiff's counsel, and the Plaintiff's clerk in court now attending with the record of the Plaintiff's bill accordingly, and the Defendant still persisting in his contempt, upon hearing, &c.

Decree pro Confesso as to one Defendant, and heard as to others.

This cause, &c. And forasmuch as the Defendant A. B. being served with process to appear to and answer the Plaintiff's bill, appeared accordingly, but stood out all process of contempt for want of his answer, and a commission of sequestration under the great seal was awarded against him, notwithstanding which, the said Defendant A. B. persisting in his contempt, the Plaintiff obtained an order, dated, &c. that this cause should be set down to be heard before _____ next after the causes then already appointed, and that the Plaintiff's clerk in court should then attend with the record of the Plaintiff's bill, in order that the same might be taken *pro confesso* against the said Defendant; and the Plaintiff's clerk in court now attending with the record of the Plaintiff's bill accordingly, and the said Defendant A. B. still persisting in his contempt, whereupon, and upon debate, &c.

Decree to a Bill by Creditors for the Application of Testator's personal Estate.

Whereupon, &c. his Honor was pleased to order and decree, that it should be referred to Mr. S., one of the masters of this honorable court, to take an account of what was due to the Plaintiffs, and to all other the creditors of the said Testator A. I., and of his funeral expenses, and to compute interest on such of his debts as carried interest, after the rate of interest they respectively carried; and the said master was to cause an advertisement to be published in the London Gazette, and such other public papers as he should think proper, for the creditors of the said Testator to come in before him and prove their debts, and he was to fix a peremptory day for that purpose; and such of them who should

should not come in and prove their debts, by the time so to be limited, were to be excluded the benefit of the said decree; but such persons, not parties to the said suit, who should come in before the said master to prove their debts, were, before they should be admitted creditors, to contribute to Plaintiffs their proportion of the expense of the said suit, to be settled by the said master; and it was ordered, that the said master should also take an account of the said Testator's personal estate come to the hands of the said C. I., his executrix, or to the hands of any other person or persons by her order, or for her use, and the said Testator's personal estate was to be applied in payment of his debts and funeral expenses, in a course of administration; and for the better taking of the said accounts, the usual directions were given.

A common Decree of Foreclosure.

His Lordship doth order and decree, that it be referred to Mr. E., one, &c. to see what is due for principal and interest on his mortgage, and to tax him his costs of this suit, and the Defendant to pay unto the Plaintiff what shall be reported due to him for such principal, interest, and costs, within after the said master shall have made his report, at such time and place as the said master shall appoint; and thereupon the said Plaintiff to re-convey the said mortgaged premises, free and clear of all incumbrances done by him, or any person claiming from, by, or under him, and deliver up, upon oath, unto the Defendant, or to whom he shall appoint, all deeds and writings in his custody or power relating thereto; but in default of the said Defendant paying unto the said Plaintiff such principal, interest, and costs as aforesaid, by the time aforesaid, the said Defendant is, from thenceforth, to stand absolutely debarred and foreclosed of and from all equity of redemption, of, in, and to the said mortgaged premises.

Decree of Redemption where the Mortgagee had been for Years in Possession.

His Honor doth order and decree, that it be referred to Mr. H., one, &c. to take an account of what is due to the Defendants, for principal and interest, on the mortgage in the pleadings mentioned, dated and tax them their costs of this suit; and in taking the said account, the said master is to consider the interest due on the said mortgage on the , as amounting to the sum of £ . And it is ordered, that the said master do also take an account of the rents and profits of the said mortgaged premises received by the Defendants, or any of them, or by any other person or persons by their or any of their order, or for their or any of their use, since the said , or which, without their wilful default, might have received thereout. And it is further ordered, that what shall be coming on the said account of rents and profits be deducted out of what shall be found due to the Defendants for principal, interest, and costs as aforesaid; and in case the said master shall find the Defendants, or any of them, have been in possession of, and held the said premises, as owners or owner thereof, then the said master is to set a rent thereon, and take the
account

account accordingly, and upon the Plaintiffs paying to the Defendants what shall be found to be remaining due to them for principal, interest, and costs aforesaid, within after the said master shall have made his report, at such time and place as the said master shall appoint. It is further ordered; that the said Defendants do re-assign the said mortgaged premises, free and clear of and from all incumbrances done by them, or any person claiming by, from, or under them, and deliver up all deeds and writings in their custody or power relating thereto to the Plaintiff; but in default of the Plaintiffs paying unto the Defendants such principal, interest, and costs as aforesaid, by the time aforesaid, the Plaintiffs' bill is to stand from thenceforth dismissed out of this court, with costs, to be taxed by the said master; and for the better taking the said accounts, the parties are to produce, before the master, all deeds, &c. and are to be examined, &c. and in taking the said accounts, he is to make unto the parties all just allowances, and particularly for any necessary repairs and lasting improvements which have been made by the Defendants, or any of them, on the said mortgaged premises, since the said , and any of the parties are to be at liberty to apply as there shall be occasion.

Decree for a Partitions—Infants to have a Day to shew Cause.

Let a commission issue to commissioners to be therein named, to make partition of the estate in question, who are to take the depositions of witnesses to be examined by them, in writing, and return the same with said commission, and let the same be divided into moieties, and set out in severalty, whereof declare one moiety to belong to Mr. N. and the other moiety to Plaintiff Sir W. M., and let the respective parties convey their several moieties to each other, to hold in severalty, according to the respective undivided moieties thereof, and let the master settle the conveyances in case the parties differ about the same.

And until such conveyances shall be made, let the several parties generally hold and enjoy their respective divided moieties against each other, or any claiming under them.

And let said Defendant, Miss N. an infant, execute the conveyance before directed to be executed by her, unless she, on being served with a subpoena, shall, within months after she shall attain her age of twenty-one years, shew unto the court good cause to the contrary.

Decree for a Partition of an Advowson.

Declare, that Plaintiff is entitled to have a partition of the advowson of the vicarage of the parish church of W., in K., into moieties, to present by alternate turns, and decree that a partition be accordingly made thereof, in moieties, between Plaintiff and Defendant, E. S., devisee in the will of J. S.

And for making such partition, the Plaintiff and Defendant E. S. are mutually to execute conveyances to each other, so that Plaintiff may hold one moiety of the advowson to him and his heirs, and Defendant E. S. may hold

hold the other moiety to her and her heirs, as tenants in common, in severalty respectively.

And in such conveyance let a clause be inserted, that the Plaintiff and his heirs, and Defendant S. and her heirs, shall present to said vicarage by alternate turns; and if the parties differ, the master is to settle the conveyances, and the charges of the conveyances are to be borne equally between the Plaintiff and Defendant E. S.

And it appearing in the cause that J. S., under whom Defendant E. S. claims, hath, since the agreement for the partition or division of the premises, presented upon the last avoidance; it is ordered and decreed, that the Plaintiff do present on the next avoidance, being the first turn from this time.

And it is further ordered, that the Plaintiff's bill, as against the Defendant, the heir at law of the said J. S., be dismissed out of this court, with costs, according to the course of the court, but his Lordship does not think fit to give any costs as between Plaintiff and Defendant E. S.

Decree opening stated Accounts, and directing general Accounts.

His Lordship doth declare, that the three stated accounts, dated, &c. ought to be opened and set aside, and doth order and decree the same accordingly; and it is hereby referred to Mr. _____, cue, &c. to take a general account of all dealings and transactions between Plaintiffs, or either of them, and Defendants, and also of the value of any timber felled and taken by Defendants from off Plaintiff's estate, in the taking of which account the master is to make unto all parties all just allowances; and, for the better taking the said account, all parties are to be examined upon interrogatories, and produce all books and papers in their custody or power relating thereto, upon oath, before the said master, as the said master shall direct.

And it is ordered and decreed, that Defendants do pay to the Plaintiffs their costs, for as much of the cause as relates to the setting aside the said stated account, to be taxed by the said master, and his Lordship doth reserve the consideration of the rest of the costs of this suit until after the said master shall have made his report; and the said parties are to be at liberty to apply to the court as occasion shall require.

Decree to set out Dower, and to account for one-third of the Rents and Profits of the Estate accrued since the Death of the Husband.

His Lordship doth order, that it be referred to the master to inquire what freehold lands the said S. M. died seised of, wherein the Plaintiff B. M. is dowable, and also to inquire what copyhold or customary lands the said S. M. died seised of, wherein Plaintiff B. M. is entitled to dower, or any other estate by the custom of the manor wherein the said copyhold or customary lands, or any of them, do lie.

And that the said master do assign to Plaintiff B. her dower in such freehold lands and tenements, and also her dower and widow's estate in such customary or copyhold lands and tenements, and the said master

master is to assign and set out particular lands and tenements for that purpose.

And after the said lands and tenements shall be set out and ascertained, it is ordered, that the Defendants do deliver possession to Plaintiff B. of the lands and tenements that shall be so set out and ascertained for the said dower or widow's estate of Plaintiff B. and the tenants thereof are to attorn, and pay their rents to the said Plaintiff B.

And it is ordered and decreed, that the master do take an account of the rents and profits of the said freehold and copyhold, or customary lands and tenements, whereof the said S. M. died seized, accrued since the death of the said S. M., which have been received by the said Defendant, or by any other person by his order, or for his use.

And that one-third part of what shall be coming on said account of rents and profits of such freehold lands and tenements is to be paid to Plaintiff B. by the said Defendant, in respect of her dower, out of such lands and tenements, and such part of what shall be coming on said account of rents and profits of the said copyhold or customary lands and tenements as she shall appear to be entitled to in respect of her said dower, or other widow's estate in such copyhold or customary lands and tenements is to be paid by the said Plaintiff B. to the said Defendant.

And for the better clearing of the account, and discovery of the matters aforesaid, the said Defendant is to produce before the said master, upon oath, all deeds, writings, papers, and books of account in his custody or power, relating to the matters in question, and both sides are to be examined upon interrogatories as the said master shall direct; and the said master is to make unto both sides all just allowances.

And it is ordered that Defendants do pay unto Plaintiff B. M. her costs of this suit to this time, to be taxed by the said master, of which the said master is to make a separate report; and his Lordship doth reserve the consideration of subsequent costs, as between the Plaintiff B. and Defendants, until the master shall have made his report.

And it being declared by the counsel for Plaintiff, that they do intend to controvert the probate of the will of the said S. M., insisted on by the said Defendant in the ecclesiastical court, his Lordship doth reserve liberty to any of the parties to apply to the court for further directions, in respect of any other demands made by the bill, in respect either to the real or personal estate of said S. M. as occasion shall require.

Decree to confirm Jointure by Consent, the Lands having been specified in the Settlement.

And the Plaintiff, Sir W. A., now offering to confirm the Defendant C. A. in the several estates settled upon her in jointure by the deeds, dated, &c.

Decree that Plaintiff, Sir W. A., do confirm the jointure of said Defendant C. A. in all the said estates as the master shall direct; and let the master settle deeds or assurances for the confirmation of such jointure, in case the parties differ about the same.

And after such jointure shall be confirmed as aforesaid, let Defendant C. A. produce, before the said master, upon oath, all deeds and writings

in her custody or power relating to the several estates comprised in the settlement, dated, &c.; and reserve the consideration of all further directions until after the deeds and writings produced.

Decree to set out Jointure—Jointress entitled in Equity only—Master to set it out.

Declare that Plaintiff is entitled in equity to have a jointure of £ a year made good to her out of the estate in question, according to the settlement, &c.; and therefore refer it to the master to set out and allot so much of the lands and premises comprised in the said settlement of, &c. as shall amount to, and not exceed the value of £ a year, subject to taxes and repairs, for Plaintiff's jointure for her life.

And let Defendants M. H. settle and convey such lands and premises, so to be set out and allotted as aforesaid, to Plaintiff for her life for her jointure, by such conveyances and assurances as the said master shall think fit, free from all incumbrances done by Defendant M. H., and let all proper parties join in such conveyances as the said master shall direct.

And let Defendants H. deliver possession to Plaintiff of the lands and premises which shall be so allotted and set out, with the appurtenances.

And let the Plaintiff enjoy the same for her life, against Defendant M. H., and all persons claiming under him, or E. H., her late husband, deceased, and let all deeds and writings relating to the estate in question be produced before the master upon oath.

Decree for an Account and Distribution of Testator's personal Estate. If not sufficient to pay the Debts and Legacies, then the Rents of real Estate received by Tenant for Life to keep down the Interest, and the Principal to be raised by Sale or Mortgage.

Declare that the will of the said Testator being admitted by said Defendant P. H. his heir at law, ought to be established, and the trusts thereof performed, and doth order and decree the same accordingly.

And that it be referred to Mr. , one, &c. to take an account of said Testator's debts, funeral expenses, and pecuniary legacies, and to compute interest on such of his debts as carry interest; as also to compute interest on his said legacies, at the rate of £ 4 per cent. per ann. from the time the same ought to have been paid, according to the said Testator's will.

And the said master is to cause an advertisement to be published in the London Gazette for the Testator's creditors and pecuniary legatees to come before him, and prove their respective debts; and claim their respective legacies within a time to be therein limited, or in default thereof, they will be excluded the benefit of this decree.

And the said master is also to take an account of the personal estate of the said Testator, not specifically bequeathed, come to the hands of the said Defendant J. H. his surviving executor, and the Defendant P. H. or either of them, or any other person or persons for their or either of their use, or by their or either of their order.

And

And the said personal estate of Testator is to be applied in payment of his debts, funeral expenses, and legacies, in a course of administration.

And if there shall be any surplus of Testator's personal estate remaining after payment of said Testator's debts, funeral expenses, and pecuniary legacies, it is ordered and decreed that the same be equally divided between, and paid or retained by the said Defendant P. H. and the Defendant Lord Viscount W. and S. his wife, in right of the said S. and the Defendant A. H. according to the said Testator's will; but in case the said Testator's personal estate shall not be sufficient to pay the said Testator's debts and funeral expenses, and pecuniary legacies, then it is ordered and decreed that the said Defendant P. H. do, out of the rents and profits of the said Testator's real estates, which hath accrued since his death and been received and taken by him, keep down the interest of such of the said Testator's debts and legacies as carry interest.

And that so much of the principal of the said Testator's debts and pecuniary legacies as his personal estate shall be deficient to pay and satisfy be raised by mortgage or sale of a sufficient part of the said Testator's real estate as the said master shall direct, and that a sufficient part thereof be for that purpose mortgaged or sold with the approbation of the said master, wherein all proper parties are to join, and all deeds and writings relating thereto in the custody or power of any of the parties, are to be by them produced upon oath before the said master, as the said master shall direct.

And the money arising by such mortgage or sale is to be applied in the first place in payment and satisfaction of so much of the principal of the said debts as the said Testator's personal estate shall fall short to satisfy, and then in payment of so much of the principal of the said pecuniary legacies as the said personal estate shall fall short to satisfy.

And if the same shall be raised by mortgage of the said estate, then the said Defendant P. H. is to keep down the interest thereof during his life.

And it is further ordered that all the parties have their costs of this suit out of the said Testator's estate to be taxed by the said master.

Decree for an Account of Rents and Profits—Personalty—Receiver, &c.

Decree that it be referred to Mr. one, &c. to take an account of what leasehold estates the Testator was entitled to at the time of his death and of the annual value thereof, and also an account of the rents and profits thereof, accrued since the Testator's death, received by the Defendants, his executors, or either of them, or by any person or persons, by their or either of their order, or for their or either of their use; and it is ordered that the said do also take an account of the personal estate of the said Testator, not specifically bequeathed, possessed or received by the Defendants, his executors, or either of them, by any person or persons, by their or either of their order, or for their or either of their use; and it is ordered that the master do also inquire and state to the court what the value of the leasehold house at, &c. late belonging to the Testator, and taken by the Defendant; and it is ordered that the

said master do also inquire and state to the court whether the Defendants have possessed any and what specific articles bequeathed by the Testator, other than and except those which they have delivered to the specific legatees thereof, and for the better taking the said accounts and discovery of the matters aforesaid, the parties are to be examined upon interrogatories, and to produce deeds, &c. to make just allowances, &c.

And it is ordered that the master do appoint a proper person to be receiver of the rents and profits of the leasehold estates in question in this cause, and allow him a reasonable salary for his care and pains therein; such person so to be appointed receiver first giving security to be allowed of by the said master, and taken before a master extraordinary in the country, if there shall be occasion, duly and annually to account for what he shall receive of such rents and profits as the court shall direct; and the tenants of the said estates are to attorn and pay their rents in arrear and growing rents to such receiver, who is to be at liberty to let and set the said estates from time to time, with the approbation of the said master, as there shall be occasion; and it is ordered that the person so to be appointed receiver, from time to time, do pass his accounts before the master, and pay the balances that shall be reported to be in his hands into the bank, to be there placed to the credit of this cause, subject to the further order of this court. And reserve further consideration, &c.

Decree for establishing a Charity.

Doth declare that the charitable bequest and uses made and created by the will of W. B. ought to be established, and the trusts thereof performed and carried into execution, and doth order and decree the same accordingly.

And his Lordship doth order that the information as against the Defendant T. S. do stand dismissed out of this court with costs.

And as between the relators and the other Defendants, it is ordered and decreed that it be referred to Mr. one, &c. to take an account of the rents and profits of the charity estate, accrued since the death of J. B. son of the Testator N. B. that have been received by the Defendant R. L. and the other Defendants, or any of them, or by any other, &c. to make all just allowances, &c. and particularly an allowance of, &c.

And it is ordered and decreed that what shall be coming on the balance of the said account be divided into two equal moieties, whereof one moiety is to be paid to, or retained by the Defendant the corporation of C. according to Testator's will, and the other moiety is to be paid or retained by the Defendants, the ministers of, &c. for the charitable purposes devised by said will, concerning the moiety to be paid to the minister of those parishes.

And it is ordered that any of the relators and the corporation of the city of C. do produce before the said master a scheme or schemes for the application of what shall be coming on the balance of said accounts for the moiety of said rents and profits for the poor inhabitants of the said city of C., and also for that moiety of the growing rents and profits
of

of said charity estate; in such manner as may be most beneficial for said poor inhabitants; and the said master is to state the same with his opinion thereon.

Trustees of a Charity being reduced to a small Number others appointed.

And the number of the trustees mentioned in the last conveyance of the said charity estate being reduced to six, let eighteen other proper persons of the borough of C., or inhabiting near thereto, be appointed, with the approbation of the master, to be feoffees and trustees of said charity estate, and let the relators and Defendants be at liberty to propose proper persons before the master for that purpose.

And when eighteen such persons shall be appointed by said master, let Defendants, the surviving trustees, convey the said charity estate to said eighteen persons, and their heirs, to and upon the charitable uses and trusts declared in the said schedule annexed to the of the

And let the master settle the conveyances in case the parties differ about the same.

Another.

And it being admitted the trustees of said charity were reduced to three, it was ordered that nine proper persons should be appointed, with the approbation of the said master, to complete the said number of twelve, and when such persons should be appointed, the three remaining trustees should, with the approbation of the master, make conveyance of said charity estate to the use of themselves, and the new trustees, so to be appointed, subject to the same charitable uses and trusts.

Decree for an Account of Tithes.

Declare that it be referred to the master to take an account of what is due to Plaintiffs from Defendants respectively for all tithes of corn, grain, and hay, and all other titheable matters, as well small as great, which have arisen, accrued, and renewed on the land and premises in the occupation of Defendants respectively within the parish of I., in the, &c. and the titheable places thereof, from

For the better taking of which account, both sides are to produce, &c. examination, &c. just allowances, &c.

And let the Defendants pay unto Plaintiff what shall be found due to him from them respectively, together with said Plaintiff's costs of this suit to this time, to be taxed by the master, and reserve the consideration, &c.

Another Decree for Account of Tithes.

And as between Plaintiff in the cross cause and Defendants G. and H. it is ordered and decreed, that it be referred to said master to take an account

account of tithes of potatoes growing, renewing, and arising on the lands held by said Defendants G. and H., in the parish of W., in the county of E., from the year exclusive, on the taking of which account the master is to make all just allowances.

And for the better taking thereof both sides to produce, &c. examination, &c.

And it is ordered and decreed, that said Defendants G. and H. do pay unto Plaintiff W. what shall be found due to him upon that account,

And also his costs in the cross cause hitherto to be taxed by the said master, as far as the same relates to the demand of tithes of potatoes, subsequent costs reserved.

Where Executors have paid Debts and Legacies, to stand in the Place of Creditors and Legatees.

And in case it shall appear that Defendant has paid any of the debts and legacies of the said Testator, let him stand in the place of such creditors and legatees to have an allowance or receive satisfaction *pro tanto* out of said Testator's estate, in like manner as such creditors and legatees would have been entitled to receive.

Decree for appointing a Receiver.

And the said master is to appoint a receiver for one moiety of the estates in question, and allow him a reasonable salary for his care and pains therein, such person to be appointed receiver, first giving security, to be allowed of by the master, and to be taken before a master extraordinary in Chancery in the country, if there shall be occasion, duly and annually to account for, and to pay what he shall so receive, as the court shall direct; and the tenants of the said estates are to pay their rents in arrear, and growing rents, to such receiver, who is to be at liberty to let and set the said estates, from time to time, with the approbation of the said master, as there shall be occasion; and the said receiver is to pay the balance of his accounts, from time to time, into the Bank, subject to the further order of the court.

Decree on the Reservation on further Directions—Master to compute subsequent Interest on the Debts as carried Interest, and certain Sums of Stock to be sold and applied in Payment of Debts—Executor to pay into Court what is reported due from him to Testator's Estate—Consignee to pass his Accounts, and out of Profits to pay growing Interest and Arrears of Annuities, and tax all Parties their Costs, which are to be paid by Consignee, out of Profits of Estate—further Reservation as to Lessee, Legacies, &c.

His Honour did order, that it should be referred back to the said master to compute subsequent interest on such of the debts of the Testator W. M. B. mentioned in the first schedule to his general report, dated, &c. whereon interest is thereby computed; and also to take

an account of any other debts, due from the said Testator at his death, remaining unpaid, and not mentioned in the said first schedule to the said report. And it was further ordered, that the sum of £ Bank 5 per Cent. Annuities, standing in the name of the said Accountant-General in trust in the said cause, "the account of the said Testator's real estate" should be sold with the privity of the said Accountant-General, and the money arising by such sale paid into the Bank with the privity of the said Accountant-General, to be there placed to the credit of the said cause the like account; and that out of such money, and out of the interest of the said bank annuities, until such sale, and also out of the sum of £ cash in the Bank on the credit of the said cause "the Testator's real estate," and likewise out of the sum of £ cash in the Bank, on the credit of the said cause, "the Testator's personal estate," the several creditors of the said Testator, or their legal personal representatives, should be paid what should be reported due to them, except the said Complainant W. H., he, by his counsel, consenting to waive his right or claim to receive any part of his debt out of the said bank annuities and cash. And it was further ordered, that the said J. F. B. should pay into the Bank the sum of £ , reported due from him by the said master's general report, dated, &c. on account of the personal estate of the said Testator, with the privity of the said Accountant-General to be there placed to the credit of the said cause "the account of the Testator's personal estate." And it was further ordered, that C. S., the consigner, of the rents, profits and produce of the Testator's estate in the said island of St. C., should be continued and pass his accounts before the said master; and that the said C. S. should, out of the profits and produce of the said Testator's estate which might come to his hands, pay the arrears and growing interest of the debt reported due to the said W. H., and of the legacies given by the said Testator's will and codicil, and also the arrears and growing payments of the annuities thereby given, and that he should pay the residue of such rents, profits, and produce, into the Bank, with the privity of the said Accountant-General, to be there placed to the credit of the said cause, subject to the further order of the court. And it was further ordered, that the said master should tax all parties their costs of this suit, other than the mortgagees who had been paid their costs, and that such costs, when taxed, should be paid to the solicitors for the said several parties out of the residue of the money to arise by sale of the said bank annuities, before directed to be sold, and of the interest that should accrue thereon until the sale thereof, and of the said sums of £ and £ cash in the Bank in the said cause, the aforesaid accounts, (after payment of the said several creditors,) and also out of the said sum of £ , before directed to be paid into the Bank on the account of the personal estate, as far as the same would extend, and that the residue of such costs should be paid by the said C. S. out of the rents, profits, and produce of the said Testator's estate in the said island of St. C. And the usual directions were thereby given for the said Accountant-General to draw on the Bank for the purposes aforesaid; and his Honor did continue the reservation of any directions as to the question whether there were any, and what circumstances affecting the

the said Testator's estate to make it proper, any ways, and how far, to lessen the two legacies of £ each given by the said Testator's will to his two daughters the said E. B. and L. B.; and also the annuities of £ sterling given by the said will to the said D. M. G., £ St. C.'s currency, thereby given to the said L. F., and also the two annuities of £ each given by the first codicil to the Testator's will to the said E. B. and L. B. And his Honor did reserve the consideration of any question that might arise between the creditors of the said Testator respecting the jewels and ornaments of the person of the said Testator's wife which she usually wore, and of all further directions; and any of the parties were to be at liberty to apply to the court as there should be occasion.

Decree Nisi where Defendant makes Default.

This cause coming on, &c. in the presence of counsel learned, for the Plaintiff, no one appearing for the Defendant, although he was duly served with a subpoena, to hear judgment in this cause, as by affidavit, now produced and read, appears, the substance of the Plaintiff's bill appeared to be, that, &c. (*state the bill.*) Whereupon, and upon hearing, &c. read, and what was alledged by the counsel for the Plaintiff, his Lordship doth order and decree, that, &c. And this decree is to be binding on the Defendant, unless he, on being served with a subpoena to shew cause against the same, shall, at the return thereof, shew unto this court good cause to the contrary; but before the said Defendant is to be admitted to shew such cause, he is to pay unto the Plaintiff his costs of this day's default in appearance, to be taxed by the master.

Decree Nisi where Defendant, an Infant, makes Default.

This cause, &c. (*as before*) unless the Defendant, the infant, on being served with a subpoena to shew cause against the same, shall, at the return thereof, shew unto this court good cause to the contrary; and as to the said Defendant, the infant, unless also he shall, within months after he shall have attained his age of twenty-one years, shew unto this court good cause to the contrary; but before the said Defendant, now making default, is to be admitted to shew cause against this decree, he is to pay unto the Plaintiff his costs of this day's default in appearance, to be taxed by the master.

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